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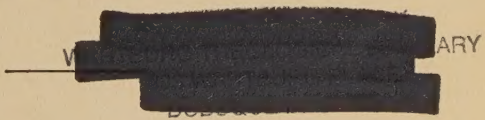
(old series v. 14)

NEW SERIES, VOLUME VIII

APRIL, 1928 TO JANUARY, 1929



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ARTICLES AND AUTHORS.

	PAGE
Proceedings of the Eighth Annual Meeting, American Catholic Historical Association	3
The American Judiciary and Religious Liberty, Presidential Address, *Clarence E. Martin*	13
The Higher Education of the Catholic Clergy (1800-1927), *Rt. Rev. Thomas Joseph Shahan*, D. D., J. U. D.	38
The Church and Scholasticism in Their Historical Relations, *Rt. Rev. Msgr. Edward A. Pace*, D. D.	55
The Historical Attitude of the Church Towards Nationalism, *Rev. John J. Burke*, C. S. P., D. D.	69
The Church's Social Work Through the Ages, *Rev. Joseph C. Husslein*, S. J.	81
The Attitude of the Church Toward Free Speech, *Very Rev. John A. Ryan*, D. D.	96
The Origin of Sound Democratic Principles in Catholic Tradition, *Rev. Moorhouse F. X. Millar*, S. J.	104
The Church and Political Government, *Hon. William Franklin Sands*	127
Contributions of the Papacy to International Peace, *Rev. John Keating Cartwright*, D. D.	157
Nationalism at the Council of Constance, *Rev. George C. Powers*, D. D. A. F. M.	171
The Origins of "Real Patronato de Indias," *J. Lloyd Mecham*, Ph. D.	205
Pourquoi Rome a Parlé, *Arthur Robert*, Ph. D.	228
Medieval Manuscripts, *Zoltan Baraszti*	237
Status of Roman Catholicism in Canada, *William Renwick Riddell*	305
The Religious Issue in National Politics, *Rev. Edward John Byrne*, C. S. P., M. A.	329
Spanish Rule in the Netherlands Under Philip II, *Sister M. Constance*, M. A.	365
The Catholic University of America	477
The Adoption of the Roman Easter Calculation by the Island Celts, *Rev. Francis S. Betten*, S. J.	485
An Important Chapter in American Church History (1625-1650), *Rev. John M. Lenhart*, O. M. Cap.	500
The Ecclesiastical Status of New Mexico (1680-1875), *Sister M. Ramona*, S. C. N., M. A.	525

MISCELLANY.

America, *Thomas J. Shahan*	248
On Some "Gifts from Kings", *Young E. Allison*	250
The Capuchins (1528-1928), *G. B. S.*	423
Louis Philippe's Donations to Bardstown Cathedral, *Rev. Henry S. Spalding*, S. J.	569

DOCUMENTS.

PAGE

Encyclical of Pope Pius XI on the Fostering of True Religious Unity..... 254
Encyclical of Pope Pius XI on Promoting Oriental Studies..... 431
Cardinal O'Connell's Address at the Installation of Monsignor Ryan as Rector of the Catholic University of America..... 572
Address of Monsignor Ryan on his Installation as Rector of the Catholic University of America..... 576
Address of Clarence E. Martin at the Installation of Monsignor Ryan..... 580
Address of Doctor George Johnson on Transfer of the Remains of Very Rev. Thomas J. Shields, Founder of the Sisters' College..... 582

CHRONICLE.

Monsignor Ryan, Fifth Rector, Catholic University of America..... 439
National Conference of Catholic Charities..... 439
Census Bureau Report on Catholic Population..... 443
Franciscan Custody of the Holy Land..... 444
International Federation of Catholic Alumnae..... 587
American Council of Learned Societies..... 588
Mrs. Sigrid Undset, Nobel Prize Winner..... 596
The Catholic Press Directory..... 698, 699
St. Gertrude's School of Arts and Crafts, Brookland, D. C..... 603

BOOK REVIEWS AND REVIEWERS.

COULTON, *Five Centuries of Religion*, Patrick J. Healy..... 262
SHOTWELL AND LOOMIS, *The See of Peter*, John M. Lenhart, O. M. Cap..... 266
DEBOUXHTAY-IRENIKON, *Rome et L'Orient au V. siècle: Appel de Flavien Patriarche de Constantinople à S. Leon Pape (449 A. D.) Appel d' Eusebe de Dorylee à S. Leon Pape*, John M. Lenhart, O.M.Cap..... 272
DI RUGGIERO, *The History of European Liberalism*, William Franklin Sands 273
BROOKS, *Reading for Honors at Swarthmore*, Edward B. Jordan..... 277
MACDONELL, *India's Past*, Roy J. Deferrari..... 280
MULLER, *Stephen Gardiner and the Tudor Reaction*, Francis J. Tschan..... 281
WAY, *The Language and Style of the Letters of St. Basil*, William P. H. Kitchin 283
HOFMANN, *Sinai und Rom.*, R. Butin..... 284
KUBITSCHEK, *Grundriss der Antiken Zeitrechnung*, Martin R. P. McGuire.. 285
ZWIERLEIN, *The Life and Letters of Bishop McQuaid*..... 287
BRUCE, *American Parties and Politics*..... 290
GRAHAM, *New Governments in Eastern Europe*..... 291
GOEBEL, *The Struggle for the Falkland Islands*..... 292

PAGE

TEUBNERI, *Sancti Aurelii Augustini Episcopi De Civitate Dei Libri XXII ex recensione B. Dombart quartum recognovit A. Kalb Vol. 1, Lib. I-XIII*, Martin R. P. McGuire 294
SCHLESINGER AND FOX, *A History of American Life* 445
MORISON, *The Oxford History of the United States* (1783-1917), Francis J. Tschan 455
CONROY, *A History of Railways in Ireland*, Richard J. Purcell, Ph. D. 458
FRANK, *Catullus and Horace*, Martin R. P. McGuire 460
BAKER-CROTHERS, *Virginia and the French and Indian War*, Richard J. Purcell, Ph. D 461
BRIGHAM, *The United States of America, Geographical Study* 463
GLEESON, *Cashel of the Kings*, Richard J. Purcell, Ph. D 464
MONTGOMERY, *The History of Yaballaha III* 465
SEARS, *A History of American Foreign Relations*, Francis J. Tschan 466
WILLIAMSON, *Sir John Hawkins, the Time and the Man* 469
PAETOW, *The Crusades and Other Historical Essays* 469, 608
FRENCH, *The Taking of Ticonderoga in 1775, The British Story*, Richard J. Purcell, Ph. D 610
Massachusetts Historical Society, Proceedings, Richard J. Purcell, Ph. D. 611
GAUGHAN, *The Story of Sir Charles Vereker*, J. F. L 613
DONNELLY, *Literary Art and Education*, J. F. L 613
SCOTT, *Issac Jogues, Missioner and Martyr*, J. F. L 614
MUNDELEIN, *Letters of a Bishop to His Flock*, J. F. L 614
LAWLER, *Builders of America*, J. F. L 615
STANISLAUS, *The Journeys of Jesus*, S. J. F 615
EBLE, *St. Francis Xavier, the Apostle of India and Japan*, S. J. F 616
WINDLE, *Religious Past and Present*, S. J. F 616

NOTES AND COMMENTS.

Mediaeval Popes and the Jews 625
The Pious Fund of the Californias 627
Unearthing a City 631
Noted Speakers and Religious Prejudice 633
The Calendar 634
Research in the Romanistic and Social Sciences 471
Cardinal Mercier 471
American Neutrality and International Police 471
Report of the Bureau of American Ethnology 472
Mystic Italy 472
The *Historical Bulletin* 617
The Church and the Citizen, Rev. John A. Ryan 617
Unpopular Essays in the Philosophy of History 617
The Official Catholic Year Book 618
Dictionary of American Biography 619

PAGE

The Grey Nuns in Pembroke 620
The Catholic Church and Healing, Dr. James J. Walsh 620
Proceedings, American Antiquarian Society 620
The *Treasury of the Faith* Series 621
The Eastern Churches and the Papacy 621
The Struggle for Catholic Emancipation 622
Thomas Aquinas, His Personality and Thought 622
The Life and Work of Blessed Robert Ballarmine, S. J. 622
The History of Franciscan Preachers (1209-1927) 622
Franciscan Educational Conference 622
Religion Without God 623
Sisters of Notre de Namur 623

NECROLOGY.

Right Reverend Monsignor Horace K. Mann 443
Ludwig von Pastor 589

THE CATHOLIC HISTORICAL REVIEW

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The Catholic Historical Review

NEW SERIES, VOLUME VIII **APRIL, 1928** NUMBER 1

PROCEEDINGS OF THE EIGHTH ANNUAL MEETING, AMERICAN CATHOLIC HISTORICAL ASSOCIATION, WASHINGTON, D. C., DECEMBER 28-30, 1927

The Joint Programme of the sixteen learned societies which held their sessions simultaneously in Washington, D. C., December 28-30, 1927, revealed in a striking manner the wide extent of the scholastic work being accomplished by these important groups. The Programme, issued by the American Council of Learned Societies, was a new venture and met with general approval by all those present. The Council also organized a Joint Press Bureau, in charge of Mr. James T. Grady, of Columbia University, which kept the members fully and correctly informed on the sessions and furnished to the daily press abstracts of the papers read. All the societies represented in this annual Christmas-week meeting reported a larger registration of attending members than in past years.

The American Catholic Historical Association consisted as in former years of three Public Sessions, an Annual Business Meeting, and a General Session.

The eight papers read at the Public Sessions on Wednesday, Thursday, and Friday, December 28-30, were chosen by a Committee on Programme, consisting of Rev. Dr. John J. Burke, C.S.P., Very Rev. Dr. John A. Ryan, and Rev. Dr. Peter Guilday.

These papers which make up the contents of this issue of the CATHOLIC HISTORICAL REVIEW, had as their general theme the historical development of the Church's attitude towards some of the principal intellectual problems of the present day—higher educational institutions for the Catholic clergy; the history of

scholastic philosophy in Catholic schools; the position taken by the Church toward freedom of thought and of speech; the historical phases of Catholic teaching on the problem of political government; the social action of the Church in modern times; the problem of nationalism; the origins of democratic principles in government; and the contribution of the papacy to the promotion of international peace. With these papers is published also the presidential address of Mr. Martin on the timely subject of the *American Judiciary and Religious Freedom.*

The three morning Sessions were presided over by the Very Rev. Eugene J. Connelly, LL.D., the Right Rev. P. C. Gavan, D.D., and the Right Rev. C. F. Thomas, D.D.

The success of the Eighth Annual Meeting was due in great measure to the direction and cooperation given by the Committee on Local Arrangements and the Committee on Registration and Information. The members of the Local Arrangements Committee were: Rt. Rev. C. F. Thomas, D.D., LL.D., *Chairman;* Hon. William H. DeLacy, *Vice-Chairman;* Rt. Rev. P. C. Gavan, D.D.; Very Rev. Eugene J. Connelly, LL.D.; Rev. Edward L. Buckey; Rev. Edward J. Hickey, Ph.D.; Rev. Boniface Stratemeier, O.P., Ph.D.; Mrs. William Franklin Sands; Miss Agnes Regan; John C. Fitzpatrick; and Miss Elizabeth Randolph Shirley, *Secretary.* The Committee on Registration consisted of: Henry Edward Cain, *Chairman;* Miss Josephine Lyon; Miss Margaret Guilday; and Miss Anna Mullarkey, *Secretary.*

The Annual Business Meeting was held on Wednesday afternoon, December 28, under the chairmanship of Clarence E, Martin, Esq., President of the Association for 1927. Reports were read by the treasurer, the committees on membership and on nominations, and by the secretary.

(a) *Report of the Treasurer*

(December 1, 1926 to December 1, 1927.)

BALANCE—December 1, 1926.	
Cash on hand	$1,305.32
Liberty Bonds	2,000.00
Note—Federal Land Bank of Louisville, Ky.	1,000.00
TOTAL BALANCE	$4,305.32

RECEIPTS:

Annual Dues	$2,260.50	
Life Memberships	450.00	
Interest on Liberty Bonds and Federal Land Bank Note	130.00	
Interest on Bank Deposits	32.20	
Contributions to Expense of Philadelphia Meeting	272.28	
Second Liberty Loan Bond (Redeemed)	1,500.00	
Miscellaneous	2.25	4,647.23
		$8,952.55

EXPENDITURES:

Expense of Office Supplies and Service	1,074.70	
Expense, Philadelphia Meeting	306.85	
Investment (Federal Land Bank—Note and Accrued Interest)	1,566.38	
Doctor Jameson (*Writings on American History*)	50.00	
Carnegie Institution of Washington	10.75	
Catholic Historical Review	1,198.50	4,207.18

RECAPITULATION:

Balance at beginning of year ($4,305.32) and Total Receipts for year	8,952.55
Total Expenditures for year	4,207.18
TOTAL BALANCE—Dec. 1, 1927	$4,745.37

INVESTMENTS:

Liberty Bond	$ 500.00	
Notes—Federal Land Bank of Louisville, Ky.	2,500.00	3,000.00
CASH ON HAND—Dec. 1, 1927		$1,745.37

(b) *Report of the Committee on Membership*

(December 23, 1927)

When the Association was founded at Cleveland in December, 1919, it was unanimously voted that membership in its ranks be

open to all who were interested professionally or otherwise in the study of the history of the Catholic Church. Membership is not, therefore, limited to those who are of the Catholic Faith. The Association began in 1919 with a membership of sixty-eight and each year has seen a marked increase in our numbers. The total membership on December 31, 1926, was 517, classified as follows:

Members of the Catholic hierarchy in the United States	77
Priests, secular and religious	293
Brothers	1
Sisters	24
Lay Members	104
Institutions (Colleges, Universities, Libraries, etc.)	18
Total	517

This marked an advance of 142 members over the preceding year.

During the past year two carefully selected lists of prospective candidates were made out, and to one hundred prominent students and teachers of history and Church history in the United States an invitation was extended to join in the work of the Association. The result of this campaign (up to December 23, 1927) brought to the Association six Life Members and seventy-seven Annual Members. The Life Members are as follows: Rev. P. H. McClean, Bridgeport, Conn.; Rt. Rev. Francis H. Gavisk, P.A., LL.D., Indianapolis, Ind.; Rt. Rev. Paul J. Nussbaum, D.D., Bishop of Marquette, Mich.; Ignatius J. Hortsmann, Esq., Philadelphia, Pa.; Mr. John F. O'Dea, Canton, Ohio; and the Very Rev. Msgr. Cornelius F. Crowley, V.F., New Rochelle, N. Y.

The following are the names of the new Annual Members: Miss Agnes C. Reidy, Washington, D. C.; Rev. Joseph A. Kenny, Heckscherville, Pa.; Rev. Patrick Joseph Treacy, Culbertson, Mont.; Rt. Rev. Alcuin Deutsch, O.S.B., Ph.D., Collegeville, Minn.; Lewis Cassidy, Esq., Philadelphia, Pa.; Rev. Charles E. Fitzgerald, New York; Rev. James McCarthy, Oconomowoc, Wis.; Rev. Thomas S. McGrath, A.B., Rossville, S. I., N. Y.; Sister M. Clotilda Voulle, S.S.J., Nazareth, Mich.; Rev. H. A. Constantineau, O.M.I., M.A., D.D., San Antonio, Texas; Rev. William J. Engelen, S.J., A.M., Ph.D., D.D., Toledo, Ohio; Franciscan

Fathers, Seaside Park, N. J.; Rt. Rev. F. A. Purcell, D.D., Chicago, Ill.; John M. Galvin, Esq., Council Bluffs, Iowa; Rev. Benedict M. Allen, O.P., S.T.Lr., Ross, Calif.; Francis Xavier O'Reilly, M.A., Brooklyn, N. Y.; Mrs. Harry S. Sherwood, Catonsville, Md.; Rev. John K. Sharp, Brooklyn, N. Y.; Foster Stearns, A. M., Worcester, Mass.; Rt. Rev. James H. Ryan, Ph.D., S.T.D., Washington, D. C.; Rev. John Seliskar, Ph.D., St. Paul, Minn.; Mr. John L. Warfel, Lancaster, Pa.; Very Rev. Martin J. O'Malley, C.M., D.D., Los Angeles, Calif.; Percy J. King, Esq., Manhattan, N. Y.; Rev. Malachy P. Foley, M.A., Chicago, Ill.; Rev. Dr. F. B. Steck, O.F.M., Quincy, Ill.; Mr. Donald A. Callahan, Wallace, Idaho; Rt. Rev. Henry P. Rohlmann, D.D., Davenport, Iowa; Mr. John Joseph Gorrell, Pittsburgh, Pa.; Rev. Edward P. Curley, A.M., Helena, Mont.; Rev. James L. Burke, S.J., Worcester, Mass.; Mother Margaret M. MacSwiney, B.A., Ph.D., Asheville, N. C.; Rev. Mother Elizabeth Dease, Ravenhill, Germantown, Pa.; Rev. W. Howard Bishop, Clarksville, Md.; Rev. William E. Cashin, A.B., New York; Very Rev. Msgr. Joseph V. S. McClancy, LL.D., Brooklyn, N. Y.; Rev. John S. Murphy, A.M., LL.D., Galveston, Texas; Rt. Rev. Thomas E. Horgan, D.D., Sacramento, Calif.; Rt. Rev. Edward P. Dempsey, D.D., Oakland, Calif.; Very Rev. F. F. Connor, J.C.L., Rockford, Ill.; Rev. Lalor McLaughlin, A.B., Convent Station, N. J.; Rev. Joseph Bernard Code, M.A., S.T.B., Davenport, Iowa; Rt. Rev. Msgr. John B. Chadwick, D.D., New York City; Rev. F. Drees, Columbus, Ohio; Rev. G. P. Mulvaney, C.S.V., Ph.D., San Antonio, Texas; Rev. Matthew F. Clark, S.T.L., Providence, R. I.; Rev. Charles A. Costello, DuBois, Pa.; St. Gabriel's Monastery, Brighton, Mass.; Rev. James A. Craig, S.T.B., Providence, R. I.; Rev. A. K. Ziegler, Caldwell Hall, Catholic University of America; Rev. Andrew H. Mihm, Baltimore, Md.; Rev. Jerome D. Sebastian, Baltimore, Md.; Rev. Joseph J. Leary, Baltimore, Md.; Rev. Louis O'Donovon, S.T.L., Baltimore, Md.; Rev. James Hickey, M.A., Ph.D, Baltimore, Md.; Rev. Gerald G. Walsh, S.J., B.A., M.A., Woodstock, Md.; Rev. George H. Tragesser, Mount Savage, Md.; Rev. Ignatius Fealy, Woodlawn, Md.; Rev. Louis J. Briody, Chicago, Ill.; Very Rev. John F. Fenlon, S.S., D.D., Baltimore, Md.; Rev. Charles J. Hennessy, S.J., A.B., A.M., La Plata, Md.; Rev. Joseph Gilbert Hann, S.T.L., Baltimore, Md.; Rev. E. J. Mannix, S.T.L., Denver, Colo.; Rev. J. M. Haug, S.S.,

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A summary shows the geographical growth of the new membership:

California	4
Colorado	1
District of Columbia	7
Idaho	1
Illinois	5
Indiana	1
Iowa	3
Maryland	16
Massachusetts	5
Michigan	1
Minnesota	2
Montana	2
New Jersey	3
New York	9
North Carolina	1
Ohio	2
Rhode Island	2
Pennsylvania	6
Texas	3
Wisconsin	1

The Association has suffered a large toll this year by death, seventeen of its members having passed away in 1927. Among these are seven Life Members: Archbishop Canevin, Pittsburgh; Bishop Muldoon, Rockford, Ill.; Monsignor Nash, Philadelphia; Father Holweck, St. Louis, who had but recently completed the great work of his lifetime—*A Dictionary of the Saints;* Richard M. Reilly, First Vice-President of the Association; C. A. Grasselli, Esq., Cleveland, Ohio; and Festus J. Wade, St. Louis, Mo.

Among the Annual Members who passed away were: Bishop Russell, of Charleston, S. C.; Bishop Gorman, of Boise, Idaho; Monsignor Shine, of Plattsmouth, Nebraska; Father Siegfried, of Overbrook Seminary; Archbishop Denis O'Connell, of Richmond, Va.; Mr. John A. Flick, of Camden, N. J.; Rev. John P. Ruba, Grand Rapids, Mich.; Mr. John K. M. Ewing, Washington, D. C.; Rev. R. E. Ryan, Harrisville, R. I.; and Mr. Henry C. Magee, Oaklyn, N. J. Fifteen of our members have resigned during the year. The total loss for the year has been thirty-two. With the gain made this year of eighty-three members, the total membership as of December 23, 1927 is 568, showing a net gain of forty-nine members over last year.

(c) *Report of the Committee on Nominations*

The members of this Committee were: Monsignor Gavan, *Chairman,* Very Rev. Dr. Connelly, Rev. Francis S. Betten, S.J., and Rev. Dr. Guilday. The following were nominated and elected for the year 1928: *President,* John C. Fitzpatrick, Acting-Chief of the Manuscript Division of the Library of Congress; *First Vice-President,* Leo Francis Stock, Ph.D., Carnegie Institution of Washington, Department of Historical Research; *Second Vice-President,* Hon. William H. DeLacy, D.C.L., Professor in Law, Catholic University of America; *Treasurer,* Right Rev. C. F. Thomas, D.D., Washington, D. C.; *Secretary,* Rev. Dr. Guilday; *Assistant-Secretary,* Rev. Dr. Hickey, Detroit, Mich.; *Archivist,* Rev. Dr. George Boniface Stratemeier, O.P. As members of the Executive Council the following were elected: Right Rev. Francis H. Gavisk, D.D., V.F., Indianapolis; Dr. Lawrence F. Flick, Philadelphia; Dr. James J. Walsh, K.S.G., New York; Carlton J. H. Hayes, Ph.D., Columbia University; and Hon. James E. Deery, Indianapolis.

In his Annual Report, Dr. Guilday, the Secretary, stated that a survey of the formal Reports presented at our Annual Meetings since 1919, when the Association was organized, revealed a remarkable adherence during the past eight years to the original aim and purpose of our organization, and at the same time a sure though gradual delimitation of the work the Association can best accomplish. It is of value, he said, to restate this aim and

purpose, if for no other reason than to make it serve as a criterion of judgment upon the past year's activity.

We need to be reminded from time to time not only of the universal aspect of our field of intellectual labor, but also of the fact that our Association is the only learned Catholic Society in the world devoted entirely to the subject of general Church history. This thought must bring reflection to all who realize the potent energies housed in our Association, as well as the influence such a society may yet become in American learned circles. It will also give us patience during these infant years of our organization, when the ways and means of widening and deepening our influence upon American intellectual leadership seem sometimes too frail for so vast an undertaking.

The American Catholic Historical Association may not fulfill its purpose, if it strives to become a popular organization. An over-large membership would inevitably bring into our ranks certain forces that might create risks for our ideals. One of these forces whose presence we should deprecate in the Association, would be that attitude of mind which sees in all Catholic organization another means of carrying a doctrinal advance into the fold of those who are not members of the Catholic Church. This must always be kept apart from our ideal. That ideal is higher historical scholarship, profound historical research, the objective presentation of historical truth, and a calm dispassionate study of the Church's great past. Into that study all must feel free to enter with the assurance that the Association, while largely composed of Catholics, is sacredly pledged to objective historical truth.

There is probably no center where research and study in the ancient and medieval periods of Church history can be more advantageously pursued than in the Catholic University of America. We lost one of our best leaders in this study when the Holy See called to its diplomatic service Archbishop Paschal Robinson, O.F.M. The foundation of the American Catholic Philosophical Association at the Catholic University of America in 1924 was soon followed by its quarterly review, *The New Scholasicism;* and while the philosophic thought of the Middle Ages must necessarily be its chief concern, medieval historical studies in general will profit by the labors of its leaders and members.

Some have expressed doubt whether serious medieval historical research can be successfully done outside of European University centres. It would not be difficult to disprove this sentiment. The number and the quality of successful dissertations in many of our American universities show that we are not necessarily in a weak geographical position for the study of ancient and medieval culture. All our better equipped universities have in their faculties teachers who have been trained abroad and who have shown themselves capable of producing works of scholarly design and finish, comparable to the best in Europe.

While the number of Catholic scholars capable of presenting penetrating essays and treatises on the modern period of Church history is great, we find a comparatively few in our ranks who are capable of handling with dexterity and accuracy problems of contemporary Catholic life and culture.

We need, therefore, a training-school for aspiring Catholic historical students—a training-school that will be something more than a graduate course of history lectures, dissertation-preparation, and historical research. We need a home or an institute where the student who has finished all his class-room and seminar training may come, find the proper and adequate apparatus of books and sources, come into personal contact with the best scholars in his chosen field, and above all be free from those responsibilities and distractions which ruin the prolonged leisure so necessary for scholarly thought and study.

An Institute of Historical Research, situated near the new magnificent Mullen Memorial Library which will soon be opened at the Catholic University of America, and within such a reasonable distance of the Library of Congress, is the ideal which should occupy a dominant place in the minds of all the members of the Association.

Such an Institute, properly equipped and endowed, would focus the attention of Catholic and non-Catholic alike upon the preëminent place which must always be accorded to the history of Catholicism in the world. It would be the home of the Association and of its official organ, the *Catholic Historical Review.* It would be a Mecca for visiting scholars from all parts of the world. It would be, to many non-Catholic scholars who despair of finding adequate answers to their problems concerning the historical

past of the Church, a centre to which they might come with confidence for assistance and cooperation.

No other institution would serve so quickly a national and an international need as an Institute of Historical Research here in Washington, especially at a time when the importance of historical studies and their bearing upon the cause of current problems and the shaping of our national policies have come to be widely recognized in most countries.

Dr. Guilday described the plans he has drawn up for this Institute, which will be largely modelled on the Institute of Historical Research of London. In a detailed summary of the nature of the papers presented at our eight annual meetings, he stressed the necessity of providing in future sessions of the Association for papers on problems connected with contemporary Church history.

The Executive Council voted to hold the Ninth Annual Meeting at Indianapolis, December 28-31, 1928.

THE AMERICAN JUDICIARY AND RELIGIOUS LIBERTY*

More than half a century after the Declaration of Independence and the adoption of the Constitution, De Tocqueville, the Frenchman, writing on the separation of Church and State in America, said: "In America, religion is a distinct sphere, in which the priest is sovereign, but out of which he takes care never to go. Within its limits, he is master of the mind; beyond them, he leaves men to themselves, and surrenders them to the independence and instability which belongs to their nature and their age." (2 De Tocqueville, Democracy in America 31). But he wrote ahead of his time. His statement, though supported by popular belief in regard to America, because of the provisions of the National Constitution, was not then literally true. The American States, although striving toward that end, had not yet reached the goal.

Eliminating from our consideration the efforts of Cecil Calvert, Baron of Baltimore, and William Penn, the Quaker, to found colonies for their persecuted brethren and to guarantee religious freedom in the palatinate of Maryland and the colony of Pennsylvania, respectively, and the Plantation Agreement of Providence in 1640, followed by the patent of 1643, to the Rhode Island plantations, which basic charters were frequently offended against or completely ignored in subsequent legislation, real religious liberty was unknown in America until the Virginia Assembly adopted George Mason's bill of rights in 1776. And though many of the original States proclaimed freedom of conscience as one of the inalienable rights of man, in most of them this right was recognized only so far as Christians were concerned, and in some of them the right was extended to the several Protestant sects alone.

A study of the first constitutions of the several original States is interesting. By the Constitution of 1780, Massachusetts, guaranteeing religious liberty, directed that at the request of any or several subordinate municipal corporations, the Legislature should provide, at the expense of the town, parish or precinct for the support and maintenance of public Protestant

*Presidential Address.

teachers of piety, religion and morality. Persons not members of the church, were not taxed for that purpose. The governor was required to be a Christian. State officers were required to swear that they believed in the Christian religion. The former provision was eliminated in 1833; the latter requirements were abolished in 1820.

New Hampshire's Constitution of 1784 contained a like provision for the employment of teachers. The Constitution of 1792, while guaranteeing liberty of conscience, provided that the Governor and members of the State Senate should not be eligible unless the respective person was a protestant. This requirement was stricken out in 1877.

Connecticut existed under the old charter of 1662 until 1818, when a constitution was adopted providing for free exercise and enjoyment of the religious profession. But the same instrument permits a majority of the members of any Christian denomination to tax all of the members of that congregation for the support and maintenance of ministers or teachers of that denomination. This is unchanged.

New York's Constitution of 1777 provided for free enjoyment and exercise of religious worship, and, to emphasize the separation of Church and State, it made priests and ministers incapable of holding any civil or military office.

New Jersey, in 1776, permitted worship "in a manner agreeable to the dictates" of conscience, and in the next paragraph proclaimed that "no protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of religious principles," and provided that all persons "professing a belief in the faith of any Protestant sect" were capable of holding office. The constitution of 1844 provided for religious freedom and eliminated the other conditions.

Pennsylvania, in 1776, asserted complete freedom in religious matters and other than a belief in God, required no religious test for office holding. These provisions exist today.

In 1776, Delaware provided for liberty of conscience and required of officers a belief in the Holy Trinity and the scriptures. This religious test was abolished in 1792.

In the same year, Maryland adopted a constitution granting religious liberty to all persons "professing the Christian re-

ligion," and requiring of officials "a declaration of a belief in the Christian religion." After several changes, the fundamental law now provides for a belief in the existence of God, not alone of officers but of jurors and witnesses.

Virginia's Constitution of 1776 contains George Mason's bill of rights, which provides that "all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the natural duty of all to practice Christian forbearance, love and charity towards each other." This bill of rights was the first fundamental declaration separating Church and State in any of the American States, and it exists intact today. No priest or minister was permitted to become a member of the General Assembly. No oath was provided for, but the first act of the General Assembly was to ordain a form of oath, in substance still in effect, to be taken by the different officers, ending with the declaration: "So help me, God." The form of oath previously used, certainly in Berkeley County, now in West Virginia, and in Frederick County, although not provided in the statute, contained a clause declaring that affiant did not believe in the doctrine of transubstantiation.

By its fundamental charter, adopted in 1776, North Carolina declared that the right to worship God according to the dictates of one's conscience was a natural and inalienable right. Not only priests and ministers were made incapable of occupying places in the legislative branch of the government, but only persons who did not deny the existence of God or the truths of the Protestant religion, or the divine authority of either of the Old or New Testament, or who held religious principles compatible with the freedom and safety of the State were permitted to hold office. A convention called for the purpose of amending the Constitution, met in 1835, and proposed an amendment, afterwards adopted, changing the word "Protestant" to that of "Christian." This was done, it may be interesting to note, as a compromise, after a brilliant legislative fight led by William Gaston, son of a Revolutionary soldier, first student of Georgetown College, and afterwards chief justice of North Carolina.

The Constitution of South Carolina, proclaimed as one of the reasons for the severance of political ties with Great Britain, the action of King George in permitting the Roman Catholic religion

to be freely exercised in Quebec and the extension of its limits, with the design to overawe and subdue the colonies. Curious is it that New York, in the same year, did not so regard it. In 1778, a new constitution declared for toleration of all religions acknowledging the existence of one God and a future state of rewards and punishments, but established the Christian Protestant religion as the State religion and gave to its followers equal religious and civic privileges. This charter was followed in 1790 by one granting complete religious freedom.

It is evident that Georgia desired to sever entirely, not alone its political but its religious ties with England, when it adopted its first Constitution in 1777. Counties were then parishes named in honor of some saint. Not only was religious freedom proclaimed, but the clergymen were denied seats in the legislative branch and the names of parishes were changed from Saints Paul, Matthew, Patrick, John, James, Thomas, Andrew and Mary to counties by the names of Richmond, Burke, Effingham, Chatham, Liberty, Glynn and Camden. Protestants alone were permitted to enjoy the right to occupy the higher offices, including members of the legislature. The Constitution of 1789 eliminated the religious requirement.

Vermont, knocking at the door of Congress for admission to the Union when the new government was organized, provided by its first Constitution adopted in 1777, for liberty of conscience, but required its officers by oath, to "own and profess the protestant religion." The Constitution of 1786, approved by Congress and under which it was admitted to the Union, provided for complete religious liberty, although it stated that all "ought to observe the Sabbath or Lord's day."

This resume is given so that one may comprehend the situation confronting the makers of the National Constitution; which document when submitted, did not contain a bill of rights, but merely stated that no religious test should be required as a prerequisite to holding office thereunder. In the debates, which followed, in the several State conventions, this clause was considered and interpreted in a most contradictory manner.

In the Massachusetts convention, Mr. Singletory, one of the delegates, stated that men in power might have no religion, and though he hoped to see a belief in the Christian religion required

of officials, "yet by the Constitution, a Papist, or an Infidel, was as eligible as they." (2 Elliot's Debates 44). Rev. Mr. Backus declared that serious minds were concerned " lest, if all religious tests should be excluded, the Congress would hereafter establish Popery, or some other tyrannical way of worship." (2 Elliot's Debates 149).

The fear was expressed on the North Carolina convention that some American might be elected Pope, and then return and be elected President. This fear was allayed by the statement that only a native or one residing in the country for fourteen years at the time of the adoption of the Constitution could be elected President. Mr. Iredell urged that "a native of America must have very singular good fortune, who, after residing fourteen years in his own country, should go to Europe, enter into Romish orders, obtain the promotion of cardinal, afterwards that of pope, and at length be so much in the confidence of his own country as to be elected President." (4 Elliot's Debates 196.)

The Virginia convention, however, felt that the provision eliminating a religious test as an official prerequisite was insufficient to guarantee complete religious freedom. Patrick Henry, in his attack on the submitted work of the Constitutional Convention, said:

> "Wherefore is religious liberty not secured? One honorable gentlemen, who favors adoption, said that he had his fears on the subject. If I can well recollect, he informed us that he was perfectly satisfied, by the powers of reasoning (with which he is so happily endowed) that those fears were not well grounded. There is many a religious man who knows nothing of argumentative reasoning; there are many of our most worthy citizens who can not go through all the labyrinths of syllogistic, argumentative deductions, when they think that the rights of conscience are invaded. This sacred right ought not to depend on constructive, logical reasoning.
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> "When we see men of such talents and learning compelled to use their utmost abilities to convince themselves that there is no danger, is it not sufficient to make us tremble? . . . The present opinions of individuals will be buried in entire oblivion when those rights will be thought of. That sacred and lovely thing religion, ought

not to rest on the ingenuity of logical deduction. Holy religion, sir, will be prostituted to the lowest purposes of human policy. . . ." (3 Elliot's Debates, 317, 318.)

That convention approved the Constitution, with the understanding that there should be submitted amendments to the States, which would incorporate a bill of rights therein. As a result the first ten amendments were adopted, and the first of these forbid Congress to make any law respecting the establishment of religion or prohibiting the free exercise thereof. Some of the States refused to ratify the Constitution until the bill of rights was also submitted, although it is a matter of historical importance as showing the trend of the times that neither Massachusetts, Connecticut or Georgia ever acted upon them.

As will be hereinafter suggested the first amendment is binding authority only upon Congress, but that body has interpreted the mandate to apply to its approval of State constitutions of new states when admitted to the Union. Hence the provision of religious freedom has found its way into the constitutions of all of the several States admitted after the State of Vermont.

Today, a different era, so far as the fundamental law is concerned, exists. A study of the constitutions of the several States, having in mind the thought that the existence of God is a conclusive presumption in our legal system, is convincing that the principle of religious liberty is firmly established.

This guaranty, being universally regarded in America as a fundamental and inalienable right, does not require legislative action to carry out the several constitutional provisions on the subject, and these provisions are applied and enforced proprio vigore.

"Whatever, therefore, may have been their individual sentiments upon religious questions, or upon the propriety of the State assuming any supervision of religious affairs under other circumstances, the general voice has been to make all persons equal before the law, and to leave questions of religious belief and religious worship to be questions between every man and his Maker, which human tribunals are not to take cognizance of, so long as the public order is not disturbed, except as the person himself, by voluntary action in associating himself with a religious organization, may have conferred upon such organization a jurisdiction over him in ecclesiastical matters. These

constitutions, therefore, have not established religious toleration merely, but religious equality; in that particular being far in advance not only of the mother country, but also of much of the colonial legislation, which, though more liberal than that of other civilized countries, was still connected with features of discrimination based upon religious belief." (Cooley's Constitutional Limitations 467.)

"Religion is not defined in the Constitution," (Reynolds v. United States, 98 U. S. 162, 25 L. Ed. 666); and the "law knows no religion and is committed to no dogma" (Watson v. Jones, 13 Wall. 728, 20 L. Ed. 666). As defined by the Supreme Court of the United States:

> "The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for His being and character of obedience to His will." (Mr. Justice Field in Davis v. Beason, 133 U. S. 333, 342; 33 L. Ed. 637, 640).

Religious liberty or freedom of conscience, then, means not only the right to worship God in the manner one desires, for that would only be a species of toleration, but the duty of one not to legally regard the religion of his fellowman as an impediment to full civic rights, so long as that belief does not disturb the public safety or peace or become a cloak for acts of licentiousness. In other words, to carry out the guaranty of complete religious freedom, one may not regard the religious belief of his fellowman either as an element of favorable or unfavorable consideration. The Supreme Court of Ohio well stated the thought desired to be expressed when it said:

> "We sometimes hear it said that all religions are tolerated in Ohio; but the expression is not strictly accurate—much less accurate is it to say that one religion is a part of our law and all others only tolerated. It is not by mere toleration that every individual here is protected in his belief or disbelief. He reposes not upon the leniency of government, or the liberality of any class or sect of men, but upon his natural indefeasible rights of conscience, which, in the language of the constitution, are beyond the control or interference of any human authority." (Thurman, Judge, in Bloom v. Richards, 2 Ohio State 387, 391.)

Despite the assertion of the Ohio Court, one of the problems with which the courts have been confronted throughout our constitutional history, the solution of which has required much consideration, is the reconciliation of the common law with the several constitutional provisions, because the Christian religion is an integrate part of the common law, and in most of the States and all of the original thirteen states, the common law is in force. (1 Blackstone 63 et sequi; Robinson's Elements of American Jurisprudence, sec. 14; Cooley's Constitutional Limitations 472; Town of Pawlet v. Clark, 9 Cranch 292, 334, 3 L. Ed. 735. 750; Jerrett v. Taylor, 9 Cranch 43, 46, 3 L. Ed. 650, 651; Vidal v. Gerard, 2 Howard, 127, 198, 11 L. Ed. 205, 234; Holy Trinity Church v. U. S., 143 U. S. 457, 471, 36 L. Ed. 226, 232; Peoples v. Ruggles, 8 Johns. 290, 294, 295). The Ohio Court in Bloom v. Richards, supra, held that although Christianity was part of the common law, yet neither Christianity nor any other form of religion is a part of the law of that State, because the provisions of the Ohio constitution are antagonistic to the provisions of the common law in that respect.

Other courts, functioning under similar constitutions, have not so held. In Updegraph v. Com., 11 Serg. & R. 394, 400, the Pennsylvania court declared:

> "Christianity, general Christianity, is, and always has been, a part of the common law of Pennsylvania; . . . not Christianity with an established church, and titles, and spiritual courts; but Christianity with liberty of conscience to all men."

And in Peoples v. Ruggles, supra, Chancellor Kent, the great American commentator, speaking as chief justice of New York, said:

> "The people of this State, in common with the people of this country, profess the general doctrines of Christianity, as the rule of their faith and practice; and to scandalize the Author of these doctrines is not only, in a religious point of view, extremely impious, but even in respect to the obligations due to society, is a gross violation of decency and good order."

Again in the Gerard will case (Vidal v. Gerard, supra), Mr. Justice Story, speaking for the Supreme Court of the United States, said:

> "It is also said, and truly, that the Christian religion is a part of the common law of Pennsylvania. . . . So we are compelled to admit that although Christianity be a part of the common law of the State, yet it is so in this qualified sense, that its Divine origin and truth are admitted, and therefore it is not to be maliciously and openly reviled and blasphemed against, to the annoyance of believers or the injury of the public."

In Holy Trinity Church v. U. S. (supra), again speaking for the Supreme Court of the United States, Mr. Justice Brewer said:

> "If we pass beyond these matters to a view of American life as expressed by its laws, its business, its customs and its society, we find everywhere a clear recognition of the same truth. Among other matters note the following: The form of oath universally prevailing, concluding with an appeal to the Almighty; the custom of opening sessions of all deliberative bodies and most conventions with prayer; the prefatory words of all wills, 'In the name of God, amen'; the law respecting the observance of the Sabbath; with the general cessation of all secular business, and the closing of courts, Legislatures, and other similar public assemblies on that day; the churches and church organizations which abound in every city, town and hamlet; the multitude of charitable organizations existing everywhere under Christian auspices; the gigantic missionary associations, with general support, and aiming to establish Christian missions in every quarter of the globe. These, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation."

But the rules of the common law have not been ingrafted on our law to their fullest extent. For instance apostacy, heresy, reviling the rules of the established church or refusing to conform to its worship, witchcraft, or sorcery, simony, blasphemy, cursing, Sabbath breaking and drunkenness are all crimes set out by Blackstone as offenses at common law against God and religion. (4 Blackstone 41). Some of these crimes, such as

blasphemy, cursing and public drunkenness, still exist upon the theory that we are a Christian nation.

Our Sunday laws have been the target of attack by persons of the Jewish faith and Seventh Day Adventists for many years. Sunday was among the first and most sacred institutions of the Christian religion. Tertullian (A. D. 202) mentions Sunday observance (14 Cath. Ency. 335). Legislation on Sunday observance was first had about A. D. 321, when Constantine the Great commanded all judges and inhabitants of the cities to rest on that day. In 425, Theodosius prohibited games and theatrical exhibitions. Athelstan, in England, about the year 940, provided for Sunday observance, and the statute 29 Charles 11 (1678) seems to have laid the foundation for most of our laws on the subject in this country (See 29 R. C. L. 1414, 37 Cyc. 540).

Some of the courts hold that it is a holy day, or the Lord's day, and as such it must be observed. (Weldon v. Colquitt, 62 Ga. 449, 35 Am. Rep. 128). And this thought pervades all of the earlier cases (Ex parte Burke, 59 Cal. 6, 43 Amer. Rep. 231, where the cases are reviewed). It is apparent, however, that the courts generally have held the Sunday laws to be a proper exercise of the police power based upon the experience of mankind as to the wisdom of requiring a day of rest at stated intervals, which is rendered necessary for the physical as well as the moral nature of man. The courts have defended the statutes, nevertheless, upon the further ground that they were passed as an aid to the common law, and were based upon the assumed right of a free Christian people, looking to the conservation of public order, peace and morality, and the promotion, within well guarded limits, of the religious ideas pervading their history and indelibly stamped upon the character of their laws and institutions (29 R. C. L. 1418 and cases there cited; 37 Cyc. 541, et sequi).

Every court in the land, before which the question has arisen, has held the Sunday observance laws constitutional. They violate no rule of conduct so far as religious liberty is concerned. They do not require the citizen to religiously observe the day, they do not prevent him from observing some other day. As stated in Ex parte Burke (supra):

> "Sunday laws leave this religious belief and practices as free as the air he breathes. They only forbid the

carrying on of certain kinds of business on a certain day of the week, and the day selected in deference to the feelings and wishes of a large majority of the community is that day commonly denominated the Christian Sabbath or Sunday."

While probably obiter dicta in the case decided, the opinion expressed by Judge Boyd, that eminent jurist who presided over the Maryland court for years, is worthy of repetition here (Jedefind v. State, 78 Md. 510, 28 Atl. 405, 22 L. R. A. 721):

"It is undoubtedly true that rest from secular employment on Sunday does have a tendency to foster and encourage the Christian religions, of all sects and denominations, that observe that day, as rest from work and ordinary occupations enables many to engage in public worship who probably would not otherwise do so. But it would scarcely be asked of a court, in what professes to be a Christian land, to declare a law unconstitutional because it requires rest from bodily labor on Sunday, except works of necessity and charity, and thereby promotes the cause of Christianity. If the Christian religion is, incidentally or otherwise, benefitted or fostered by having this day of rest (as it undoubtedly is) there is all the more reason for the enforcement of laws that help to preserve it. While courts have generally sustained Sunday laws as 'civil regulation,' their decisions will have no less weight if they are shown to be in accordance with Divine law as well as human."

It is interesting to note that the Supreme Court of the United States held that a statute of Georgia prohibiting the operation of freight trains on Sunday was not in contravention with the interstate commerce clause (Hennington v. Georgia, 163 U. S. 299, 41 L. Ed. 166), although Chief Justice Fuller and Associate Justice (afterwards Chief Justice) White dissented therefrom). Ordinances of cities respecting Sunday observance have been upheld as constitutional (City Council v. Benjamin, 2 Strobhart, 508, 49 Am. Dec. 608). Baseball, when admission is charged, is also unlawful on Sunday in most jurisdictions (State v. Hogrieve, 152 Ind. 660, 45 L. R. A. 509, 53 N. E. 924).

Contracts made on Sunday, however, are not void at common law, for that reason, and are only void when made so by statute. But the day being sacred in the eyes of the law, it is dies non juridicus. No judicial act may be performed on that day, or, if

performed, is void. Law violators, however, may be arrested under warrants issued on Sunday. Some of the states permit the issuance of attachments in civil proceedings, upon the ground that such acts are ministerial, not judicial, in character. No suit of a civil nature, may be brought, except in aid of the attachment process, nor writ returnable on Sunday, No verdict of a jury may be received nor court held on Sunday.

The courts, then, have reconciled and conciliated the common law and constitutional requirements as to Sunday observance.

Upon the same theory the courts have uniformly held that the constitutional guaranty of religious freedom does not permit acts inimical to peace and good morals.

Four cases of the Supreme Court may well engage our attention at this point. Each of them concerns the effort of the United States government to eliminate the practice of polygamy, which was one of the principles, now abandoned, of the Church of the Latter Day Saints or the Mormon Church. In 1862, Congress made bigamy a crime in the Territories. One Reynolds was indicted for violation of the act in the Territory of Utah. He claimed that he was a member of the Mormon Church and a believer in its doctrines; that it was one of the accepted doctrines of the Church that the male members thereof, circumstances permitting, should practice polygamy; that he had received permission from the regularly constituted authorities of the Church to enter into polygamous marriages; and that he had deliberately done so, the ceremonies in the several instances having been performed by a recognized minister of that Church having authority. He claimed that Congress could pass no law abridging the practice of his religious belief. After conviction the case came to the Supreme Court. In Reynolds v. U. S., 8 Otto 145, 25 L. Ed. 244, 250, Mr. Chief Justice Waite said:

> "In the face of all this evidence, it is impossible to believe that the constitutional guaranty of religious freedom was intended to prohibit legislation in respect to this most important feature of social life. Marriage, while from its very nature a sacred obligation, is, nevertheless, in most civilized nations, a civil contract and usually regulated by law. Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal. . . .

"In our opinion the statute immediately under consideration is within the legislative power of Congress. It is constitutional and valid as prescribing a rule of action. . . . Laws are made for the government of actions and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? . . .

". . . To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself."

Congress then passed an act debarring from the ballot box anyone practicing bigamy or polygamy and required an oath before registration to that effect. In Murphy v. Ramsey, et al, 114 U. S. 15, 29 L. Ed. 47, this act was upheld. Then in Davis v. Beason, Sheriff, 133 U. S. 333, 33 L. Ed. 637, the Court passed upon a prosecution of defendants for conspiracy to break this law by procuring their registration while members of the Mormon Church and engaged in polygamous practices. In the opinion, Mr. Justice Field said:

"It is assumed by counsel for the petitioner that, because no mode of worship can be established or religious tenets enforced in this country, therefore any form of worship may be followed and any tenets, however destructive of society, may be held and advocated, if asserted to be a part of the religious doctrines of those advocating and practicing them. But nothing is further from the truth. Whilst the legislation for the establishment of a religion is forbidden, and its free exercise permitted, it does not follow that every thing which may be so-called can be tolerated. Crime is not the less odious because sanctioned by what any particular sect may designate as religion."

Again Congress acted. This time it passed an act requiring the Attorney General to institute and prosecute proceedings to forfeit the property of corporations obtained or held in violation of the act passed in 1862 to prevent and prohibit polygamous practices. Action was brought to dissolve the corporation and forfeit the property of the Mormon Church, because

12284

the profits from the property were being used to spread the teachings and practice of polygamy. The case reached the Supreme Court (Late Corporation of Latter-Day Saints v. U. S., 136 U. S. 1, 34 L. Ed. 478). In the opinion, among other things, Mr. Justice Bradley said:

> "Notwithstanding the stringent laws which have been passed by Congress—notwithstanding all the efforts made to suppress this barbarous practice—the sect or community composing the Church of Jesus Christ of Latter-Day Saints perseveres, in defiance of law, in preaching, upholding, promoting and defending it. It is a matter of public notoriety that its emissaries are engaged in many countries in propagating this nefarious doctrine, and urging its converts to join the community in Utah. The existence of such a propaganda is a blot on our civilization. The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of the civilization which Christianity has produced in the Western World."

Being leading authority upon subjects treated, these cases have been uniformly followed. For instance during the late war it was held that one could not, because of some assumed religious belief, evade and aid others to evade the draft law. The court held that legitimate conscientious objectors could work and were working at non-combatant tasks, yet these parties were even attempting not only to evade service, but stir up strife as well. (Fraina v. U. S. 255 Fed. 36.). And the exemption of priests, ministers and theological students from the provisions of the draft law was held not to be a violation of the first amendment. (Selective Draft Cases, 245 U. S. 366, 62 L. Ed. 349.) Nor may one use religion as a cloak for mailing obscene literature (Clark v. U. S. 211 Fed. 918, Knowles v. U. S., 170 Fed. 412). The very reason for excluding literature from the mails and refusing facilities for its distribution is because the matter is deemed injurious to public morals (Ex parte Jackson, 96 U. S. 736). And the mails may not be used to sell the power to conquer disease, poverty and death. The so-called transmission of this power is not a religious rite and is not covered by the first amendment. (New v. U. S., 245 Fed. 710.)

Next we come to the matter of religion in education. Here the courts have no defined line of consistent action. It has been held in some States that the reading of the King James version of the Bible, without comment, or the reading of the Bible, followed by the recitation of the Lord's prayer, may be done in the public schools without infringing upon the religious liberty of the students. (Hackett v. Brookville Graded School District, 120 Ky. 608, 69 L. R. A. 592, 117 A. S. R. 599, 87 S. W. 792; Donahue v. Richards, 38 Me. 379, 61 Am. Dec. 256; State ex rel Freeman v. Schreve, 65 Neb. 853, 59 L. R. A. 927, 91 N. W. 846; Billard v. Board of Education, 69 Kan. 53, 76 Pac. 442, 66 L. R. A. 166; Knowlton v. Baumhover, 182 Iowa 691, 166 N. W. 292.) The principle is based upon the theory that the Bible is not a sectarian book; that there is little difference between the King James and the Douay versions; that Christianity pervades the laws; and, in addition, the Lord's prayer is the common property of all. In one case, it was also held that the teaching of the ten commandments does not conflict with the religious liberty guaranty (Pfeiffer v. Board of Education, 118 Mich. 560, 77 N. W. 250, 42 L. R. A. 536).

The opposite view has been taken in other States, however. (People ex rel King v. Board of Education, 245 Ill. 334, 92 N. E. 251, 29 L. R. A. (N. S.) 442, 19 Ann. Cases 220; Herold v. Parish Board, 136 La. 1034, L. R. A. 1915 D. 941, 68 S o. 116). Nor may the Bible be used as a text book, because that is held to violate the constitutional provisions of religious liberty (State ex rel Weiss v. District Board, 76 Wis. 177, 44 N. W. 967, 7 L. R. A. 330, 20 Am. St. Rep. 41; State ex rel Dearle v. Frazier, 102 Wash. 369, L. R. A. 1918 F. 1056, 173 Pac. 35). A resolution of a school board prohibiting the use of the Bible in the schools has been upheld. (Board of Education v. Minor, 23 Ohio St. 211, 13 Am. Rep. 233). This decision was reached upon the ground that it was a matter entirely within the jurisdiction of the local authorities. It has been held, too, that a board of education cannot compel children to take part in dances made part of the curriculum, where the parents object on religious grounds. (Hardwick v. Board of Trustees, 54 Cal. App. 711, 205 Pac. 55).

We come to another set of decisions. It has been held that religious garbs may not be worn by teachers in the public schools,

even though the wearer be a member of a religious community and an elected teacher. (O'Connor v. Hendrick, 184 N. Y. 421, 77 N. E. 612, 7 L. R. A. (N. S.) 402.) But the opposite view has been held where no religious exercises were engaged in or any religion taught (Hysong v. Galletzin School District, 164 Pa. 629, 30 Atl. 482, 26 L. R. A. 203, 44 Am. St. Rep 632; Millard v. Board of Education, 121 Ill. 297, 10 N. E. 669.) It has also been held that a board of education may not lease a Catholic school, and employ nuns as teachers, notwithstanding the fact that all of the children in that particular district are Catholics (Knowlton v. Baumhover, 182 Iowa 691, 166 N. W. 202, 5 A. L. R. 841). It has been held in many cases in numerous states, that public money may not be appropriated to the cause of sectarian education. But the courts have taken a different view where the appropriation was for an industrial school (Dunn v. Chicago Industrial School, 280 Ill. 613, 117 N. E. 613, L. R. A. 1918 B 207), and for teachers in an orphan asylum (Sergeant v. Board of Education, 177 N. Y. 317, 69 N. E. 722). The Supreme Court of the United States has held, also, that the first amendment was not violated by Congress in appropriating money to be expended in the erection of buildings for hospital purposes on the grounds of a sectarian institution. (Bradfield v. Roberts, 175 U. S., 291, 44 L. Ed. 168). The decisions seem also to be in hopeless conflict upon the use of churches or sectarian buildings for school purposes and the use of public school houses for religious meetings. It is fair to say that the weight of authority seems to be that any sectarian building may be rented the same as any other place; but the public school building may not be used for sectarian purposes.

Some educators have the impression that they are the determining agency of the State as to the standards governing the moral, social and mental development and training of the young. This theory has been combatted by the courts for generations. True the laws pertaining to education and the school rules and regulations must be observed. But the school, public or private, is not the sole, nor even the primary, developer of the child's character; it occupies a secondary position. It is simply an aid, though indeed a valuable one, to achieve an end; a facility, if you will, at the parent's command to lighten their burden and make more efficacious their work. The parents are the respon-

sible factors to God and to the State. They may delegate this primary responsibility to no one. Only when they fail may the State interfere. And they may call to their assistance such agencies as they desire. The German language case (Meyer v. Nebraska, 262 U. S. 390, 67 L. Ed. 1042), and the Oregon School case (Pierce v. Society of Sisters of Holy Name, 268 U. S. 510, 69 L. Ed. 1070) sustain this position.

Then too, there are cases where the parents, prior to marriage have agreed in writing that the children born of the marriage should be brought up and educated in a certain faith, death claims one of the parents and the survivor breaks the agreement. Can the agreement made with the deceased parent prior to marriage be enforced? The courts, with uniformity, have held that such an agreement is not legal and that the survivor is at liberty to break the compact. (Denton v. James, 107 Kan. 729, 193 Pac. 307, 12 A. L. R. 1146; Brewer v. Cary, 148 Mo. App. 193, 127 S. W. 685; Butcher's Estate, 266 Pa. 479, 109 Atl. 683.) It has been held, however, that while the agreement is not binding, where the survivor has shown a desire to carry out the agreement and dies, then the guardian appointed must carry it out as the expressed desire of both parents (In re Butcher's Estate, supra).

During the existence of our government the courts have been called upon with considerable frequency to interfere in heresy cases, matters of excommunication, removal of pastors, and matters of like nature. While there are a few cases, not well considered, where the courts have attempted to intervene, the great concensus of opinion is that these are matters for the ecclesiastical powers of the respective church or denomination with which the civil authorities have no right to interfere. A few illustrations will suffice.

In Chase v. Cheny, 58 Ill. 509, 11 Am. Rep. 95, the effort was made by Mr. Cheny to enjoin his removal as pastor of an Episcopal church in Chicago, upon the ground, among others, that his contract of employment was property. In the opinion Judge Thornton said:

> "Freedom of religious profession and worship cannot be maintained, if the civil courts trench upon the domain of the church, construe its canons and rules, dictate its discipline, and regulate its trials. The larger portion of the Christian world has always recognized the truth of the

declaration, 'A church without discipline must become, if not already, a church without religion.' It is as much a delusion to confer religious liberty without the right to make and enforce rules and canons, as to create government with no power to punish offenders. The constitution guarantees the free 'exercise and enjoyment.' This implies, not alone the practice, but the 'possession with satisfaction'—not alone the exercise, but the exercise coupled with enjoyment. This 'free exercise and enjoyment' must be, as each man, and each voluntary association of men, may determine. The civil power may contribute to the protection, but cannot interfere to destroy or fritter away."

In O'Donovan v. Chatard, 97 Ind. 421, 49 Am. Rep. 462, the plaintiff sued Bishop Chatard of Indianapolis for damages for removing him as pastor at Brownsburg. Chief Justice Franklin, in the opinion said:

"The complaint shows an adjudication of the plaintiff's case by the proper ecclesiastical authorities of the church to which he belonged, and according to the foregoing authorities, it is not for this court to inquire whether that adjudication was regular or irregular, right or wrong; it is final in the premises."

In Sale v. First Regular Baptist Church of Mason City, 62 Iowa 26, 49 Am. Rep. 136, Judge Seevers said:

"For some alleged offense against the church, the plaintiff has been expelled therefrom by the church. This is a purely ecclesiastical question into which we cannot inquire. . . . No property interest, or any other valuable civil right, has been affected by the action of the church. The plaintiff has not and cannot suffer any civil damages whatever."

The leading case is Watson v. Jones, 13 Wall. 679, 20 Law Ed. 666, where Mr. Justice Miller thus laid down the law:

"In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression

and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself proves for."

There is but one exception to this well settled rule. The courts are compelled, when two or more sets of parties claim possession of the church property, to inquire into the status to determine which set represents the church authority. Then property and not religious rights claim the attention of the court. The duty of the court is performed by determining the status or title just as in any other case. The court will administer the trust, but go no further. In cases of this character the court will ascertain the law of the church from the highest ecclesiastical tribunal of that church and accept such rule, or its interpretation, as final and binding. If the principle of government is that the majority rules, then the majority must control the right to use the property; if the powers of control are vested in officers, those who adhere to acknowledged organism are entitled to prevail. (Watson v. Jones, supra.) And it makes no difference whether the trustees recognized have been excommunicated by others in control; that does not disqualify them, they hold for the benefit of the prevailing authority, whether adherents thereto or not (Bouldin v. Alexander, 15 Wall. 131, 21 L. Ed. 69).

Probably as important a study of this question, from the historical standpoint is the attitude of the courts towards the suppression of evidence, created by declarations or admissions by one person to another under the guise of religion. To Catholics this study is especially interesting, because the protection and sanctity of the confessional is at stake.

At common law one could not refuse to testify to facts within his knowledge, though gained under seal of the confessional. In its search for the ultimate truth, the law claims the right to ascertain all the facts and circumstances surrounding a transaction, so that the person or persons charged with the duty of determining a cause may be able to reach an ideally honest conclusion. Therefore, there was no rule of evidence known as a privileged communication to a spiritual adviser.

In this country, however, and early too in the history of its jurisprudence, statutes were passed abolishing the common law rule by making such communications privileged, when made to a clergyman as such, in the course of discipline enjoyed by the church, to enable him to discharge the functions of his office. No express promise of confidence by the clergyman is necessary. It is presumed. Some of the States have no such statutes. In the States having such statutes they may be divided into two classes; some of the statutes make the clergyman receiving the communication incompetent to testify, the others give him the privilege of refusing to testify. Like all statutes in derogation of the common law, they should receive strict construction by the courts. The courts, however, generally have followed a liberal instead of a strict construction.

The Indiana and Missouri statutes are examples of the first, and the Arkansas statute of the second class. All of them require communications or confessions to be made to the clergyman in his official capacity and in accordance with the rules and practice of the denomination.

Admissions made will be received in evidence if they were not made to the clergyman in his professional character and in the course of discipline (Peoples v. Gates, (N. Y.) 13 Wend. 311; Gillooley v. State, 58 Ind. 182; State v. Morgan, 196 Mo. 177, 95 S. W. 402). On the probate of a will, the answers made to questions propounded by a priest to permit him to determine whether testatrix was in proper condition of mind to make a last confession, not being part of the confession, were held admissible (In re Thomas' Estate, 54 Cal. 509, 35 Am. Rep. 83). Statements made to an elder, who was also a deacon, who was engaged in searching for evidence against a member of the church, are not privileged (Knight v. Less, 80 Ind. 201). A voluntary state-

ment made by one accused of crime, to his minister, in justification of his acts is admissible (State v. Brown, 95 Iowa 381, 64 N. W. 277.) Statements made to a minister who acted as interpreter has nothing to do with spiritual affairs (Blossi v. C. & N. W. Ry. Co., 144 Iowa 697, 123 N. W. 360, 26 L. R. A. (N. S.) 255). Nor are statements made to a priest, who was also a notary, relative to a conveyance to which he, as notary, took the acknowledgment (Partridge v. Partridge, 220 Mo. 321, 119 S. W. 415, 132 Am. Rep. 584). Statements voluntarily made to a chief of police at an interview brought about by a Methodist minister is not a privileged communication, where accused is not a Methodist or the minister his spiritual adviser (Mitsungea v. People, 54 Colo. 102, 129 P. 241). Statements made to a minister and three members of the same congregation relative to a business transaction, the good faith of which was questioned, is not privileged (Milbourn v. Haworth, 47 Colo. 593, 108 P. 155, 19 Ann. Cases 643). Where the defendant in an arson case testified that she wrote a letter to a priest, at his dictation, stating how a fire started, although the priest stated he received the communication as an anonymous letter and afterwards showed it to defendant who admitted its authorship, the letter was not a privileged communication (Colbert v. State, 125 Wis. 423, 104 N. W. 61). A request made by a prisoner, charged with bigamy, to an Episcopal minister, requesting the latter to intercede with wife No. 1, is not within the statute. (Hills v. State, 61 Neb. 589, 85 N. W. 836, 57 L. R. A. 155). A confession made to a major in the Salvation Army is admissible. (State v. Morehous, (N. J.) 117 Atl. 296.) There is an interesting case in Michigan, (People v. Lipsczinska, 130 N. W. 617,) in which the right of the priest to testify was challenged upon the ground that he had received his information indirectly through the confessional. In 1907, a nun was murdered, and, in 1919, twelve years later, the defendant was arrested charged with the crime. The latter was the housekeeper of the parish priest, who was absent at the time of the murder. The parish was a Polish one in Leelandou County and all the parties were apparently of that nationality. The body of the murdered nun was placed in a shallow grave under a pile of lumber, near the church. The defendant stated to a detective in jail that after committing the crime she visited Milwaukee,

where she went to confession to a priest who refused her absolution until he saw Bishop Koslowski, the auxiliary bishop. The priest left the confessional, returned and gave her absolution. She claimed that at the time of a change of pastors, the Bishop told the new incumbent of the murder, who secretly exhumed the skeleton and buried it in a cemetery. Then the authorities investigated. The testimony of the priest, who, with another man, exhumed the skeleton and described the indentifying clothing therewith, was received to prove the corpus delecti, although his information and knowledge of the existence of the skeleton, and its place of interment, it was claimed came indirectly through the instrumentality of the confessional. Then, too, it was determined by the court that even were her argument true, yet by her other confession and her conduct, she had waived the right to insist upon the statute.

The privilege in favor of the priest does not prevent one from testifying to his communication with the priest in the confessional nor the priest's replies, advice and counsel. In New Jersey (Bahrey v. Poniatishin, 112 Atl. 481) the penitent communicated the advice received to another, and the latter sued the priest for slander. Because the priest was prevented by the most sacred obligations from testifying, it was urged that the witness could not. The court, and properly so, held that what was said by the witness to the priest in the confessional and the priest's replies might be testified to by the witness.

On the other hand, some courts have gone far to prevent a clergyman from testifying to facts that would not have been communicated to him were it not for his office. And the provision of compliance with the rules of the church has not always been insisted upon. In Indiana, (Dehler v. State ex rel Bierch, 22 Ind. App. 383, 53, N. E. 850) the court refused to permit a priest to testify to material facts sought to be proven by him. It does not appear that he was a willing witness nor that he received his information in the confessional. The language of the opinion precludes the latter presumption. "The evidence shows," says the court, "that the priest was there as a pastor of the Catholic Church, that she was a communicant of the Catholic Church, and that her conversation was with him as such pastor."

In Iowa, the court has held, too, that a confession made by one to his minister and three elders, before whom the defendant, a member of the Presbyterian Church, was called and questioned regarding his actions, was privileged. (Rentkemeier v. Nolte, 161 N. W. 290, L. R. A. 1917 D 273.)

But the party relying thereon must be a member of the Church. (Alford v. Johnson, 103 Ark. 236, 146 S. W. 516.) The communication must be made in confidence and with the understanding that it is secret (Hills v. State, supra). And the person claiming the privilege must have been in a penitential mood (Knight v. Lee, 80 Ind, 201).

May this right be waived, and, if waived, is the priest compelled to testify? In those states where the testimony is made incompetent, it would seem that waiver would make no difference; but where the statute gives the right to refuse only, if waived, the right to require answer is apparent. In People v. Lipsczinska, supra, the court on this question, among other things said:

> "The privilege of the confessional is the privilege of the penitent, and if the penitent waives such privileges to the extent of giving evidence of what took place at the confessional, he or she cannot complain of evidence which goes no further than to establish the facts proved by him or her."

The priest knows that the seal of the confessional cannot be broken by him and that he may not testify to any matter therein communicated. Waiver, then, could make no difference.

In the States having no statutes, what then? In New Jersey, (State v. Morehous, supra), when the court rejected the plea that the statement had been made to a major of the Salvation army, the court said:

> "Assuming that Major Niederbuhl was a priest or clergyman, . . . defendant's statement to him was not privileged. No privilege of this nature existed at common law. There is no statute in New Jersey bestowing such a privilege. The statement made by the defendant to Major Niederbuhl is admissible."

But it has been held differently in Virginia. Virginia has no statute. Father Tealing, vicar general of Richmond, in 1855, refused to testify in the circuit court to statements made to him in the confessional. The court upheld his refusal and said that

under the bill of rights of Virginia, the priest could not be compelled to answer.

West Virginia has a statute, found in the law applicable to justices, but there is no statute governing testimony in courts of record. In Jefferson County of that state, a man, who was a son of a minister but not a church member, charged with a heinous crime, sent for the pastor of his wife and his family to visit him in jail and offer to him spiritual consolation in his distress. He also sent for another minister of the same faith who resided in an adjoining county. The first one visited him daily; the second but once. When the trial opened the first man appeared with the family of the prosecuting witness. Both were summoned to testify on behalf of the State. The second clergyman, a man of the highest character, demurred, although he was not placed upon the stand. The first one, who had visited him daily, asked counsel for the defense to sign a statement that he was an unwilling witness, but his effort met with refusal. When placed upon the witness stand, defendant's counsel objected and informed the court of the nature of the testimony. His statement, taken out of the presence of the jury, was an account of a supposed confession. The court refused to permit the evidence to go to the jury upon the ground that even though the statute might not be broad enough to apply, and even though the defendant was not a member of the church of the willing witness, who admitted he had received his information in confidence under the guise of religion, yet the public policy of the State of West Virginia expressed in its laws and especially in the bill of rights, the same as Virginia, would not permit one under the cloak of religion to ascertain facts, that would not have been communicated otherwise, and then use those facts contrary to the spirit of religion and to the detriment of the prisoner.

The protection of the right of religious liberty is the duty of the several states. Certainly one need but recall the fact that the first amendment to the National Constitution is but a limitation upon Congress. The State constitutions and laws guard this sacred right. Congress may require, as a prerequisite to admission to the Union, that the people of the proposed State adopt a constitution containing a declaration of protection of the citizen in the exercise of his inalienable rights, which include that of liberty of conscience. But once admitted, the State is on a par

with all the States and may change its fundamental law in such way as it may desire. It is sovereign and supreme within its sphere and has all the powers of a sovereign nation, except those it has granted to the Federal government. This statement needs no citation of authority. What would happen if a State attempted to abolish religious freedom, however, does not belong to the realm of history. Let me quote an expression of Mr. Justice Miller relative to another, but kindred, subject (Saving & Loan Asso. v. Topeka, 20 Wall. 655, 22 L. Ed. 455):

> "It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty and the property of its citizens subject at all times to the absolute disposition and unlimited depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if you choose to call it so, but it is none the less a despotism. It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness u n d e r the unlimited dominion of o t h e r s, whether it is not wiser that this power should be exercised by one man than by many."

In this paper, the high points only of the subject have been discussed. The only apology for its length lies in the interesting phases of the many questions which may propose themselves to the investigator, and which have been touched upon in it. Sufficient, indeed, has been suggested to warrant the assertion that the American courts, at all times and in every manner, when the occasion has arisen, have protected and perpetuated that right, peculiar in many ways to the American nation, which guarantees to everyone the right to worship his God in the manner he himself desires, providing he does not imperil the public safety and morals. They have, whenever occasion offered, steered the Ship of State away from the rocks of inequality and bigotry. To them, then, all lovers of religious liberty owe a debt of gratitude, best expressed in the language of that eminent American, the late Cardinal Gibbons, used so frequently by him, when he thanked God that he lived in a country where we have "liberty without license, and authority without despotism."

CLARENCE E. MARTIN.

HIGHER EDUCATION OF THE CATHOLIC CLERGY (1800-1927)

The French Revolution, fatal as it was to the higher education of the clergy of Catholic Europe, only hastened, all told, the cataclysm toward which ecclesiastical education had been drifting. Nowhere, in the latter half of the eighteenth century, could the Church authority look with complacency on conditions that were forcing the Catholic clergy to adopt ideas and accept situations hostile to every interest of their religion.

State absolutism, prepotent and jealous, had been growing in every Catholic land of Europe since the end of the seventeenth century, and had largely subverted the traditional teaching and custom of the Catholic past. The politico-ecclesiastical heresies of the century, Gallicanism, Jansenism, Febronianism, asserted themselves freely on all sides in popular exposés and seminary manuals, in current historical and political writings and, quite practically, in the secular control of ecclesiastical reward and preferment.

One needs only to recall the new conditions and attitude of the Sorbonne, for so many centuries the dominating voice in the University of Paris and the respected arbiter of all theological discussions and conflict. Its priestly graduates, both in the secular and religious clergy, were seated in many parishes of France, had a right everywhere to the best benefices and offices, and enjoyed in all circles the highest prestige and consideration. It had acquired with time a peculiar "custody of the faith" that made it, in a way, an understudy of the papacy itself. During the century Gallicanism and Jansenism had eaten into the once stout heart of the world's most famous teaching corps, that in its day had manfully healed the Great Schism (1378-1418) and in later ages had kept the king's conscience in truth and justice, and with honest independence.

Contemporaneously the suppression of the Jesuits in France (1763) had removed a most efficient and experienced guardian of Catholic religious sense and conviction in the shadowy borderland of Church and State. It was, moreover, only the prelude to their final collapse (1773), whereby a chain of universities, immediately or mediately controlled by them, in Austria, Hungary

and Poland, passed from their direction or supervision, leaving a nasty gap along which the deism, rationalism and illuminism of the century, bold and clamant, rolled through these vast regions without effective hindrance. Their downfall affected at once the ecclesiastical seminaries of those and other countries, not to speak of the numerous continental colleges of English, Irish, and Scotch ecclesiastics in which for two centuries the Jesuits had exercised an active educational ministry, directive and missionary. We must consider also the growing poverty of the great ecclesiastical corporations, to which the theological faculties had always looked for support and encouragement,—diocese, abbey, friary, founded college, not to speak of many generous nunneries. It was becoming ever more difficult for these once rich and powerful bodies to promote ecclesiastical learning. An almost continuous state of war, actual or menacing, during the eighteenth century between the great Catholic countries reacted adversely on ecclesiastical finances, in the way of hard taxation, pillage, long and vexatious occupation, and varied oppression, against which their old and once powerful friend, the papacy, could no longer defend them with effect. The gross and ugly abuse of the "commendatory abbots," and of the many and heavy pensions for the "abbés de cour" imposed intolerable burdens on these old ecclesiastical bodies, and made it yearly more difficult to keep up the attendance of many excellent students at the great theological schools of the universities. Similar abuses diminished also the patronage and rewards bestowed formerly on successful ecclesiastical studies. The long and irritating canonico-civil conflicts of the Holy See with Savoy and Naples, the venomous propaganda and "vogue" of learned revolutionists like Pietro Giannone, the painful revolts of the highest clergy at Ems and Pistoia, the irreligious temper of most Catholic civil authority, were disturbing signs of a new mental attitude in the most influential Catholic quarters. Naturally it all fitted in with the decay of Catholic philosophy and the rising prestige of its adversaries, to which must be added a new and widening vision of the material world of industry, travel and commerce, the changing social outlook, the powerful scientific influence of Bacon and Descartes and the new "academies," the increasing "pull" of the New World in the way of material gain and advancement.

It may be thought also that the theological faculties of this period were too numerous, from the view-point of the best teaching and larger attendance, that there was too-much overlapping of university and seminary, too little proper preliminary training, grading and advancement of the ecclesiastical students.

All told, however, eighteenth century Europe was not favorable to any ecclesiastical order of interests, and had little sympathy with the noble ideals of a Muratori or the splendid efforts of a Benedict XIV. The century was "rational" and wordly to excess, proud and contemptuous of its great nurse and teacher, the Catholic Church. It danced its way, so to speak, into the vortex of ruin that daily outlined itself more clearly in the sullen hearts of the suffering national multitudes. Nevertheless, it was the century, par excellence, of ecclesiastical erudition, of great Bollandists and Benedictines, of incomparable scholars like Tiraboschi, Zaccaria and Scipione Maffei, Vico and Mabillon, Montfaucon and Tillemont.

Their outstanding services, however, could not stem the rising tide of state hostility in all Catholic lands. Yielding to various human passions, their rulers and their advisers consummated from one decade to another the educational wreck of Catholicism and rounded out the work of Luther.

LOUVAIN [1]

The premier Catholic university of modern times is Louvain (Loeven), founded in 1835 by the Belgian espicopate, as a restoration of its famous precursor, the creation of Pope Martin V in 1425. Four faculties were then established: Civil law, canon law, medicine, arts. Seven years later (1432) the faculty of theology was added.

In that state it ran a glorious career of nearly four centuries, until its suppression (1797) by the French Revolution. Oriental languages, Greek, and Latin classics, humanistic letters,

1 The Catholic universities here described are those listed in the *Annuaire des Universités Catholiques* (Nimeguen, 1927). The subject has been treated by Bishop Baudrillart, *Les Universités Catholiques* (Dict. Apologetique), Paris, 1914: by Father Grisar, S.J., *Stimmen der Zeit*, and from a restricted point of view by Don Gemelli, in *Aevum* (Sacred Heart University, Milan, 1927), Vol. I, par. 1-2.

history and Roman antiquities were assiduously cultivated. Erasmus, Justus Lipsius and Puteanus shed honor on this "Athens of Belgium," which boasted also of Vesalius, Van Helwart, and Rega in medicine, and of Minckeleers, the discoverer of illuminating gas. The new Louvain has been faithful to the spirit that created the "College of the Three Languages." Its record in Oriental philology is second to none: Beelen, Lamy, de Harlez, Abbeloos, Hebbelynck, while in zoology the name of Van Beneden and in biology that of Carnoy are justly famous. In history Jungmann, Moeller and Cauchie are prominent. Its most honorable name is that of Cardinal Désiré Mercier, philosopher, bishop and patriot. In 1909 Louvain celebrated the seventy-fifth anniversary of its re-opening. In 1914 it was destroyed by the Germans, who burned the Library and its many treasures, including the foundation bull of Martin V. In 1919 it re-opened its courses, with an attendance of 3000 students. The splendid new Library, a gift of American citizens, was opened in 1927 with about 500,000 volumes.

As now constituted, it has five faculties: theology, law (civil and canon) medicine, philosophy and science. Attached to it also are schools of political and social sciences, a higher school of commerce, the Leo XIII higher school (Institut) of philosophy, and the higher school (Institut) of pedagogy and psychology.

There are also special schools of biology (Institut Carnoy) brewing, engineering, mines, crafts and manufactures, architecture and electricity. Several seminars and conferences, like the "Seminar Historique," complete the academic organization.

It is known as a "free" university, i. e., exempt from state control. In 1911 it obtained a civil charter, and is now on quite the same footing as the state universities of Gand and Liège. In 1925 it had 3412 students and 150 professors. Until recently the University of Louvain was supported entirely by tuition fees, the Catholic people, and the Belgian episcopate. A collection is taken up for it twice a year in all the churches of Belgium, which in 1926 amounted to 690,000 francs. A small state subsidy is now granted to it, one million francs in 1923 and two million francs in 1925. In 1923 it received from the American Committee for the Relief of Belgium the residue of its funds, a sum of twenty million francs.

PARIS*

The Institut Catholique of Paris has the following faculties: theology, philosophy, canon law, civil law, an Ecole Supérieure de sciences, also an Ecole Supérieure de hautes études économiques et commerciales, an Institut of Etudes sociales et internationales, and an Institut Agricole at Beauvais.

The Institut is located in the Rue Vaugirard, on the site of the old Carmelite Convent, on whose grounds took place the September massacre of the clergy (1793). It has a library of 180,000 books, and has recently been authorized to repurchase its site confiscated by the Law of Separation. It has had several distinguished professors: De Broglie, Lapparent, Rousselot, Branly, Duchesne and others, and many valuable ecclesiastical works have come from the pens of its teaching staff.

LYONS

The Institut Catholique de Lyon has five faculties: theology, philosophy, law, letters and sciences. It was founded in 1875, and owes much to Mgr. Dupanloup, the French senator Lucien Brun, and the principal Catholic families of Lyons. Among its most distinguished professors was the Abbé Ulysse Chevalier, one of the foremost bibliographers of medieval Europe. The "Institut" has a library of 50,000 volumes, but the municipal library of Lyons has 200,000 and a great collection of manuscripts. The city (460,000) is the site of the great silk industry of France, the seat of an archbishop, and possesses the famous sanctuary of Fourvières. Its art-galleries and antiquarian collections are valuable adjuncts to good studies and its public buildings are worthy of the second city of France.

ANGERS

In pre-revolutionary days Angers boasted of being the second university town of France, and traced back its origin to the tenth century. Its Institut Catholique dates from 1875, and has

*In 1875 five schools of higher learning known as "Instituts Catholiques" were opened in France under Catholic auspices (Paris, Lyons, Lille, Angers, Toulouse). To each of the five were assigned certain dioceses, on which they were to depend for students and financial support. All continue to flourish and in 1925 celebrated their golden jubilee, despite the fact that in France all examinations for higher degrees must be conducted by the state university.

four faculties: theology, letters, sciences and law. There are also (since 1909) schools of agriculture and viticulture, and of commercial and industrial studies. The elegant French writer, René Bazin, was a graduate and later professor of the Institut.

LILLE

The Institut Catholique de Lille was opened in 1875. It has actually faculties of theology, sciences, letters, law, medicine and pharmacy, the latter being the only Catholic medical faculty in France. There are moreover schools of industrial and commercial studies, and of social and political sciences, and since 1924 a school of journalism. Lille (210,000) is an important textile and maunfacturing center, and is the seat of a state university. The city has valuable collections of the Flemish and Dutch masters, fine churches and public buildings, and since Vauban has been considered one of the key-fortresses of France. The population of the city and vicinity is profoundly Catholic. Within a short radius are some thirty-three educational institutions, with a student population of ten thousand.

The Institut is supported by private generosity and by the episcopate (pro rata). A popular collection is taken up twice a year as for Louvain. The total revenue for 1926-1927 is given as 3,250,000 francs. The professors number 70, the students 800, and the library contains 300,000 volumes.

TOULOUSE

Toulouse (130,000) ranks among the important commercial and industrial cities of France, and has a local or provincial state university. Its cathedral of Saint Sernin possesses the head of St. Thomas Aquinas. Its Institut Catholique was not opened until 1877. Gradually its different departments coalesced to the present status: law (in 1877), letters (1878), theology (1879), sciences (1882), philosophy and canon law (1899), and agriculture (1918), economic and social sciences (1926). Like all the other "Instituts" it is supported by fees, private generosity and the French episcopate. Among its distinguished professors is the Abbé Cavallera, author of a remarkable "Life and Letters of Saint Jerome."

MILAN

The Catholic University of the Sacred Heart was opened at Milan in 1921. Cardinal Ferrari, Cardinal Ratti, and Don Agostino Gemelli were its active promoters, and it was the dying hope of the famous Italian Catholic sociologist, Toniolo. In 1924, largely through the advocacy of the modern philosophers, Benedetto Croce and Alberico Gentile, it obtained from the Italian government its "Statuto" or legal recognition and incorporation.

It has the following faculties: law, letters and philosophy. There are also schools of political, economic and social sciences, and an institute of pedagogy. A peculiar feature is the continuation school (école de perfectionnement) attached to several of its chief departments. Faculties of medicine and the sciences are projected for the near future.

The University is a very active centre of Catholic literary life and propaganda. Since 1921 its professors have published 60 works of a scientific character (religious, philosophical, legal, social, historical, philological, biological, statistical, etc).

It conducts the following scientific periodicals: Rivista di filosofia neo-scolastica, Aevum (letters, linguistics and history); Archivio di Psicologia; Aegyptus (Oriental languages and history); Rivista Internazionale delle scienze sociali; Dida Skaleian (ancient Christian literature); Vita e Pensiero (Catholic culture); Rivista del clero italiano; Fiamma Viva (for female youth).

In 1926 the generosity of the Duchessa Pallavicini Fogliano-Sforza permitted the opening of the "Instituto Apostolico del Sacro Cuore," similar in scope and method to the Catholic Sisters College at Washington. In 1927 eighty Sisters, from 25 religious communities, were in attendance. The University conducts also a Summer School and a School for Defectives. In 1927 it had 467 students. Several of its most distinguished professors teach also in neighboring state universities. Its present good site in the heart of Milan is owing largely to the generosity of the Conte Lombardi, but will be exchanged in 1930 for the vast Cistercian convent, contiguous to the famous fourth century Basilica of Saint Ambrose. This is now undergoing repairs and restoration, having long served as a

military barracks. In these new quarters the University of the Sacred Heart will possess one of the finest academic sites in Europe. In the person, however, of its Franciscan Rector, Don Agostino Gemelli, it possesses a head of varied genius, tireless energy, profound and modern scholarship, a foremost writer and orator, a man of heart and vision, altogether the most active and meritorious educator, not of Italy alone, but of all Europe.

The University is supported by popular generosity, chiefly through the "Association of Friends of the Catholic University of the Sacred Heart," in which are enrolled many thousands of both sexes throughout all Italy, and which responds incredibly to the direction of Don Gemelli. Pius XI has granted to the University an annual collection on Passion Sunday. It is taken up with wonderful fervor and on the most democratic lines, in every church, oratory, association and family, down to the street-cars and the restaurants. In 1927 it totaled three million lire, about $600,000, having trebled since 1923. Pius XI has recently created and blessed the Association of the "Piccoli Amici" or Little Friends of the University of the Sacred Heart.

The great work accomplished for higher Catholic education in Italy during this decade is so wonderful and far-reaching, so practical and successful, that it shames us American Catholics who are so slow to support and develop our own Catholic University, created exactly on the lines of its Milanese sister, and equally commended and encouraged by the Holy See. *A chi la colpa?*

WASHINGTON

The Catholic University of America was opened in November 1889, having been established by the Apostolic Letter of Leo XIII, "Magni Nobis Gaudii." It is located in the Brookland suburb of the District of Columbia, on a site of 262 acres and is traversed throughout by the Baltimore and Ohio Railroad.

It has six faculties: theology, canon law, civil law, philosophy, letters, and sciences. To it are affiliated Trinity College, a graduate institution under the Sisters of Notre Dame (Namur) for the higher education of young women; the Catholic Sisters College, a graduate school for the higher training under university direction of our Catholic Teaching Sisters; and Basselin College, a graduate foundation for the training of ecclesiastical youth.

Grouped about it are 24 houses of study for religious orders and communities, whose students frequent the courses of the University and obtain its degrees.

The professors number 115, and the total number of students (1927) under instruction (including the Summer Schools) was 3317. Of these 1210 were regularly matriculated students.

The University is housed in thirteen buildings, while the religious communities have twenty-four buildings, each the property of the respective community, but in close contact with the University grounds, and several of them imposing in character.

Its property is valued at (1927) $7,073,714, of which $2,715,677 represent invested funds, and the remainder the value of grounds, buildings, and equipment. Its total revenue for 1926-27 was $694,329.49, of which $460,487.80 was ordinary revenue.

The library contains 270,000 volumes including 60 incunabula and 200 manuscripts (mostly Oriental). It has also a very valuable museum. The University is governed by a Rector appointed for a term of five years by the Catholic Hierarchy of the United States, through their Board of Trustees. He is assisted by a Vice-Rector, a Procurator, a General Secretary and an Academic Senate.

The University is not under state control nor is it subsidized in any sense. Since 1903 an annual collection is taken up for it by papal authority in every diocese of the United States on the first Sunday in Advent. In 1927 this amounted to $233,329.49. During the last twenty-five years the Catholic faithful of the United States have contributed by annual collection to the support of the University the sum of $3,228,482.97.

NOTRE DAME (Indiana)

The University of Notre Dame (du Lac) was founded in 1842 on the prairies of Indiana. It is pleasantly located, not far from Chicago, on a site of 1200 acres bought from the original Indian tribal owners, and has twenty-five buildings. Their aggregate value is given as $2,446,643. The University possesses a library of 130,000 volumes. It is composed of eight colleges: arts and letters, science, law, engineering, commerce, education, fine arts, journalism. It has an endowment of $1,069,000, and its annual

revenue is stated to be $741,098. The students (1926) numbered 2,594, of whom 1,043 were arts or collegiate students.

LAVAL (Quebec)

In 1853 the Séminaire de Quebec, (founded in 1663 by Bishop Laval) was raised by pontifical brief to the dignity of a university. It had already received (1852) a royal charter. In 1876 owing to the inconvenience of distance, succursal courses in medicine, law and arts were opened at Montreal. A few years later (1889) these schools were by papal authority made partially independent of Laval, under a Vice-Rector. A common university council however, continued to govern both. Finally in 1919 Montreal was declared by the same authority an independent university, with its own rector and university council. Laval has also schools of forestry, agriculture, chemistry and pharmacy, besides a school for nurses and a higher medical school.

It has four faculties: theology (Séminaire de Quebec) law, medicine and arts. The latter includes and directs several provincial institutes of a collegiate character. They brought the number of students (1924) to 2337. The library, inclusive of theology, has 173,000 volumes.

MONTREAL

The University of Montreal secured a papal charter in 1919, and consists of the faculties of theology, philosophy, law, medicine, letters, and sciences to which are attached schools of surgery, veterinary science, pharmacy, social, economic and political sciences, likewise the following affiliated schools: polytechnic, architecture, agriculture, higher commercial, pedagogy and music.

Its library (including the Sulpician Library) has 223,000 volumes. In 1920 it had 5,458 students, including the pupils of fifteen provincial colleges affiliated to the university. Its total revenue (1925-26) is given as $334,744). The University of Montreal receives from the Province of Quebec an annual state subsidy. In 1925-26 this amounted to $81,200. It also receives occasional subsidies. In 1921 this special state aid amounted to $1,000,000. A similar subsidy was given to Laval University

(Quebec) and to the McGill University (Presbyterian) of Montreal. The tuition fees of the University of Montreal (1925-26) amounted to $106,710, and the diploma fees to $10,822.

SANTIAGO (Chile)

Catholic Chile possesses at Santiago since 1888 a school of higher studies, free from state control and supported entirely by private generosity, but not on the same legal footing as the state university. Some large bequests have been made to it. It possesses faculties or schools of sciences, arts, agriculture, industries and commerce, engineering, architecture and belles lettres, also a school of crafts and trades (arts et métiers) recently opened in the port of Valparaiso. It has about 1000 students and conducts an institute for young women (courses in religion, history, philosophy and letters). It has no school of medicine, but conducts a preparatory medical course.

LUBLIN (Poland)

Although there is a theological faculty attached to each of the Polish state universities, Polish Catholics have undertaken the creation of a Catholic university quite free from state control. It is known as the "Sacred Heart University" and was opened in 1919 at Lublin, not far from Warsaw, in former Russian Poland.

Lublin (50,000) is the center of important woolen industries. Its cathedral, palaces, and walls lend the ancient Polish city a striking medieval cachet. There are four faculties: theology, canon law, civil law and arts, theology representing the former Roman Catholic Ecclesiastical Academy of St. Petersburg. It conducts also an institute of pedagogy, and has a library of 80,000 volumes. There are 46 professors and about 350 students. The state recognizes all degrees granted in theology, canon and civil law, philosophy, and letters.

FRIBOURG (Switzerland)

In November 1889 the little Catholic Canton of Fribourg in Switzerland courageously opened two faculties of law and philosophy, to which was added in 1890 the faculty of theology, con-

fided to the Dominican Fathers. In 1905 a faculty of mathematical physics was added with chairs of bacteriology and physiology. It stands on the same legal basis as the other public cantonal institutions, and is supported by the Canton which contributes 500,000 francs annually. The supreme administrative authority is vested in the cantonal department of education. Among its publications is the valuable "Collectanea Friburgensia," a collection of studies issued by professors of the university.

In 1925 it had 562 students, most of them foreigners and 65 professors. Courses are conducted in French, German and Latin. The library, conflated from the university and cantonal collections, numbers 340,000 books, among them 534 manuscripts and 350 incunabula.

Fribourg (16,000), near Bern, is an episcopal see, and was originally German, but most of the inhabitants now speak French. It has a very picturesque site, a fine old cathedral, a museum, hospitals, medical library, and antiquarian societies, and offers desirable educational advantages.

ROME

The Gregorian University (Gregoriana) founded by Gregory XIII (1581) and confided to the Jesuits was, after their suppression (1773), entrusted to secular ecclesiastics, but in 1824 was restored to the Society. It continued to be known as the "Collegio Romano."

Since 1874 it is known as the "Pontifical University of the Roman College" and is considered by the Holy See as the legal successor of the old "Collegio Romano," whose site, buildings and equipment were taken over by the Italian government (after 1870).

It has three faculties: theology, philosophy and canon law, and until recently was housed in the Jesuit College; only ecclesiastics are regularly admitted. It may be noted that since 1876 the Roman University (Sapienza) has lost its pontifical character, and become a royal university. In 1922 a higher school of ecclesiastical pedagogy (theology and philosophy) known as "Cursus Magisterii" was opened by initiative of Benedict XV, to which only doctors of theology and philosophy are regularly admitted. In 1918 a graduate school of ecclesiastical

Latin was established, and in 1918-19 a school of higher religious training (for laymen). A "Biblical Institute" and a "School of Oriental languages" were opened in 1909 and spacious new buildings were constructed for the "Gregoriana" in 1924.*

NIMEGUEN (Holland)

For several years the Catholics of Holland had been contributing to the "Foundation of Saint Rombaud," in the hope of seeing it develop into a school of higher studies under strictly Catholic auspices. The creation of a chair of Thomist philosophy in the University of Amsterdam pleased but did not satisfy the Catholics of Holland. Eventually the Dutch government agreed (1923) to the establishment of a Catholic university at Nimeguen on the Prussian border, long a centre of Catholic life, and at one time a "residence" of Charlemagne. The new university enjoys full state recognition and has at present three faculties: theology, philosophy and letters, and law. It has agreed to open a fourth faculty after twenty-five years and a fifth after fifty years. It is known as the "Charlemagne University." The State grants it a modest subsidy, with an outlook for some increase. The University relies, however, mostly on private generosity and the support of the Dutch Catholic episcopate. An annual collection is taken up for it in the nine Catholic dioceses of Holland, known as "University Day." This is done under the su-

*The University of Rome, still popularly known as the "Sapienza," developed from the ambulant "Studium Generale apud Curiam" of Innocent IV (1244-45), a body of professors and students who followed the papal court in its frequent migrations, eventually to Avignon, where owing to the persistent suggestion of Raymond Lull, John XXII (1316-1334) founded for missionary purposes chairs of Arabic, Hebrew, Chaldaic, Armenian, and Medicine. Whatever, meanwhile, the vicissitudes of the "University of Rome" created by Boniface VIII in 1303, it was restored by Eugene IV in 1431. Its first "Collegium" was built and endowed by the famous Cardinal Capranica and still exists on the same site, the oldest of the ecclesiastical colleges of Rome, and soon to celebrate its fifth centenary. An irreligious humanism (Poggio, Filelfo) seems to have been prevalent for a while. Alexander VI erected new buildings yet in use. Since Paul III (1549), it is known as the "Sapienza" or School of Wisdom. Famous Jesuits, like Lainez and Faber, taught theology there, and Copernicus was professor of astronomy. It suffered in the sixteenth and seventeenth centuries from the rivalry of the new and active "Collegio Romano" of the Jesuits, though its school of medicine had some celebrity. Benedict XIV was one of its professors and later its rector (1706-1719). In 1876 its ecclesiastical professors refused to take the oath of allegiance to the Italian government, and therewith all academic relations with the Holy See ceased.

pervision of a special committee in each diocese, with the use of a wide spread and efficient "literature" of propaganda, leaflets, press notices etc. The city of Nimeguen grants the University an annual subsidy of $60,000. On the occasion of its opening a fund of $600,000 was collected by the Dutch Catholics as a partial endowment.

GERMANY

It has so far been found impossible to consider seriously the foundation of a Catholic university in Germany or Austria. There remains the theological faculty of the former Benedictine University (Alma Benedictina) in the picturesque city of Salzburg (33,000), founded 1617-1623, and closed in 1810. There remain also its buildings, some antiquarian collections, and a library of 50,000 volumes. Earnest efforts have been made to collect sufficient funds to re-open this old Benedictine university, but so far without much success. The "Albertus Magnus Academy" opened at Cologne in 1922, is a graduate school for advanced courses in philosophy, under the auspices of the German episcopate and with approval of the Holy See.

ENGLAND

Cardinal Manning's heroic effort to create a Catholic university college at Kensington (1874), was an "abortive and costly failure" that finds a late echo in the statement attributed (1923) to Cardinal Bourne that a Catholic university in England "is an utterly hopeless task." Profiting by the permission of the Holy See (1897) Catholic youth began to frequent Oxford and Cambridge. There are now at Oxford two private Catholic halls, conducted by licensed Masters of Arts and approved by the Vice-Chancellor. These are Pope's Hall, for students of the Society of Jesus and Parker's Hall for Benedictine students. The Capuchin Fathers have also at Oxford a house of studies for students of their order. Lay Catholic undergraduates may enter any college. There is a central Catholic chapel with a resident chaplain. At Cambridge Catholic seminarists of various English dioceses occupy St. Edmunds' House, a home purchased for them by the Duke of Norfolk. Its members are affiliated to some of the colleges and are allowed to live together under their own rector.

The Benedictines have St. Benedict's House, a small house of studies founded at Cambridge in 1896 for the community of Downside by Dom Cuthbert Butler. In 1926-27 there were at Oxford from 180 to 190 Catholic undergraduates, and at Cambridge 133 to 137. Many of them came from Stonyhurst, Downside and Beaumont.

IRELAND

The National University of Ireland (1910) established at Dublin, Galway, Cork and Belfast, though not legally Catholic, is nevertheless sympathetic to the religion of the majority of the people, particularly in the Irish Free State. It provides for the clergy opportunities of advanced study in any secular branches they desire to cultivate, also openings for the exercise of the teachers' office, if so inclined.

At Maynooth College (near Dublin) the Dunboyne Establishment, with a revenue of five hundred pounds a year, makes some provision for those Maynooth seminarists who are studiously inclined, after their ordination to the priesthood.

SPAIN

Since 1918 an "Accademia Universitaria Cattolica" exists at Madrid, in which are given courses in religion, philosophy, social sciences and law. There is also at Madrid a Catholic institute of industries and the arts. In the Escorial the Augustinians conduct courses of higher collegiate instruction, and at Barcelona and elsewhere the Jesuits have similar schools, of a preparatory character.

BEIRUT (Syria)

As Beirut in Syria French Jesuits conduct, since 1881, a public institute of higher learning known as the "University of Saint Joseph," approved by Leo XIII. To the faculties of theology and philosophy, for native seminarists of all rites, have been added (1919) faculties of law and engineering. There is a rich library of printed works in Oriental languages and a unique collection of 3,000 Arabic manuscripts. It conducts also an Arabic press, and the name of Father Cheikho, S.J., is well-known to all Arabists. An astronomical observatory is attached

to the university. Its school of medicine was established by the French government in 1883, also a midwifery school to which was added a school of pharmacy in 1889, and a dental school in 1919. In 1923 it registered 675 students.

MANILA (Philippines)

The "University of Saint Thomas Aquinas" was founded at Manila in 1619, by bull of Paul V, and placed in charge of Spanish Dominicans, who have continued to administer it. It has the following faculties: theology, canon law, civil law, philosophy, letters, medicine and surgery, pharmacy and civil engineering. It has also an arts school. There are 75 Dominican professors, 100 secular professors, and about 1500 students. It is to some extent subject to state supervision.

PEKING (China)

The Catholic University of Peking was founded in 1925 by American Benedictines from St. Vincent Archabbey in Pennsylvania. A site of eleven acres, with several buildings, in Peking, was purchased in that year from one of the Chinese princes, uncle of the deposed Emperor. A generous private donation of $100,000 represents the endowment. The academic courses were opened in September, 1927 in presence of the Apostolic Delegate and the Chinese Minister of Education. There was an attendance of 150 students, among them several missionaries of different religious orders. Besides philosophy, instruction is given in Chinese (letters, history, antiquities, and law). A medical school and a school of technology are projected. In December 1926 official registration was granted by the National Ministry of Education in the following terms.

"On two occasions We commissioned Inspectors to examine this institution, and in the reports which they have returned We note the following observations:

"The institution is financially sound, its buildings numerous and capacious, its discipline excellent.

"This institution was founded and is supported by American Catholics for the twofold purpose of introducing the most modern developments of Western science and of preserving and vitalizing the traditional culture of China.

"The important administrative and magisterial functions are entrusted to persons of our own nationality, who enjoy the full cooperation of the foreign staff."

"This is in conformity with the regulations of this Ministry. Hence We accede to their petition and grant them registration."

TOKYO (Japan)

The Catholic university of Tokyo was founded in 1905 on the occasion of the visit of Bishop O'Connell of Portland, Maine. In 1913 it was directed by German Jesuits, and opened courses in philosophy and German literature, also in commerce and industry. It is said that the deposit of $400,000 (600,000 yen) required for official registration, has been provided.

INDIA

There is no Catholic university in India, but the Jesuits conduct at present several institutes for higher education, numbering in all 3570 students. These are: Bombay (1139), Calcutta (850), Trichinopoly (881), and Mangalore (700). In the Island of Ceylon the Oblate Fathers of Mary Immaculate conduct a similar institute (600).

THOMAS J. SHAHAN,
Bishop of Germanicopolis.

THE CHURCH AND SCHOLASTICISM IN THEIR HISTORICAL RELATIONS

A detailed account of the relations which from age to age have subsisted between the Church and Scholasticism would fill many volumes. It would be longer than a fairly complete treatise on such oft discussed questions as "Faith and Reason," "Theology and Philosophy," "Religion and Science." It would have to keep all these in view and profit by their solutions in its interpretation of facts. Though it would not undertake to analyse the problems at issue or to evaluate the principles involved, it would refer to them as sources of explanation. Without attempting to show why the Church held this doctrinal position or that, such an account would accept the fact that she did teach thus and so, and would thereupon proceed to point out the significance of that teaching as determining the relation of the Church to any result of human speculation.

Within the limits, then, assigned to this paper, it must suffice to indicate briefly one or two fundamentals upon which the attitude and the action of the Church have been, and are now, consistently based. Though they belong to the inner nature and constitution of the *magisterium,* they, no less than the existence of the Church itself, are facts with which the historian must reckon if he is to understand those other facts which lie upon the surface of the course of events.

The Church was established and commissioned by Jesus Christ to teach His doctrine. She received no mandate to set up a new Lyceum or Stoa as the successor or rival of any school that had flourished at Athens, at Rome or other center of pagan culture. Much less was it her mission to scale down the teachings of Christianity in order to effect a compromise with any system of ideas which, as survivals out of the past or as products of any future thinking, might prevail among the learned and influence the conduct of men. Her object was to teach certain truths and, in the light of these, to show the way of salvation—the common way for all mankind.

In the next place, the Church knew well that she had to deal with human intelligence. The truth as such was absolutely secure. Her mission was to get it accepted and made the actual norm of living by men who either had their own notions, more or less vague and erroneous, about the ultimate meaning of life, or gave it no thought whatever. In any case, it was essential that men should understand what the Church wanted them to believe, and that their reluctance, whether born of the flesh or of the spirit, should be overcome. Their faith indeed was to be an *obsequium;* it was also to be an *obsequium rationabile.*

Before the advent of Christianity there had been forms of religion which flourished because they tolerated, encouraged and even deified the lower elements in human nature. Their myths and mysteries, instead of lifting man to deity, brought deity down to man. They had no need of philosophy as a means of persuading or holding their votaries. They had little in common with Plato and Aristotle, Seneca and Marcus Aurelius. Their safety depended rather on avoiding contact with any system of thought that took a critical attitude toward popular belief or tradition.

For the philosophers themselves reason was supreme. If it set restraint upon feeling and passional impulse, it acknowledged no higher guide to truth or to virtue. Of revelation, in the Christian sense, it had no inkling. And yet to these philosophers or their disciples, the Church was a debtor. To them as well as to the lowliest minds she had to convey her message in terms which they could understand. To their arguments against her doctrine she had to give answer with reasons whereof they could perceive the force. But that answer involved no re-forming or transforming of the truth once delivered by Christ and recorded in the Gospel.

In this work of exposition and defense lay the germ of Scholasticism. It was conceived in the union of faith and reason. It was destined to grow and develop, to become more systematic in structure, more fully adapted to its purpose and more energetic in function until it reached the maturity of a complete synthesis. But from the beginning it contained the essential

elements and the vitality which made it available for the spread of Christianity and therefore for the uses of the Church.

The significant fact, however, which appears at the very outset, is this: the Church did not take over a philosophical system which she found ready-made and give it forthwith, by adoption, equal place and authority with the doctrine which she had received from her Founder. Her teaching indeed had for its primary result the obedience of faith on the part of those who accepted it. But furthermore, the seed, falling on good ground, stirred the minds of men into new activity. It germinated of its own power, but in its germination and its unfolding, it quickened thought to greater fertility and to the bringing forth of ideas which until then had been mere potentialities or had revealed but the slightest traces of their meaning and possible application. As an Anselm would say after centuries, it was "*fides quaerens intellectum.*" It was also intellectus arousing and gathering its forces, searching its own depths and sharpening its own perceptions in order to adjust itself as completely as it might to the *insitum verbum* whereby it was to be saved.

Salvation in the supernatural order can be obtained, it is true, without a penetrating insight into the problems of philosophy. On the other hand, false principles and deductions in philosophy are a danger to faith. At the same time they are evils for reason itself which naturally and normally seeks after truth. The intellect likewise must be saved. Once stimulated into activity, it may strike out paths that lead on to error, unless it be guided. And this is more likely to happen where a system of philosophy looms large with the prestige of great names among its authors and adherents.

Hence the need of a selection, first among the concepts and principles which had already developed, and then among their various interpretations. Materialism, evidently, was not to be considered, except as a source of danger. Hedonism was just as hopeless. Pantheism was at the opposite pole from the first article of Christian belief. The only lesson that could be drawn from those systems was plain enough: they showed to what extremes human speculation had drifted when left to its own devices.

Two systems constructed by the genius of the Greeks gave better promise. The older of these was also the first to find favor with the Christian mind. For the teaching of Plato, by reason of its highly spiritual character, was in many respects an anticipation of Christian truth; while Aristotle seemed to have wrought into one coherent synthesis all the elements of knowledge. Yet neither was perfect. Neither of these great thinkers, nor any other, could qualify as an interpreter of Christ, and much less as a substitute for Him. For their philosophies also a selective process was needed.

For that selection the criterion was already in the possession of the Church. It had been set up in clear and comprehensive terms by Him who said—"teach all men, teach them to observe whatsoever I have commanded you." What He commanded the Church knew with unwavering certitude. She alone was authorized to deliver His message. It was for her, therefore, to decide whether and to what extent any doctrine thought out by the mind of man was in accord with His teaching.

It was this ecclecticism which served as the basis of the relations between the Church and philosophy, from their earliest contact onward. I say philosophy because the Church gladly recognized in the ethnic systems many an element of truth which had value just because it was true and a further value inasmuch as it could be made available in behalf of her doctrine. Out of such elements Scholasticism was constructed. It, therefore, in principle and purpose was distinct from other systems. It was of the household of the faith. Its interests were identical with those of the Church. Naturally, then, its relations with the Church were intimate and cordial. But for that very reason much was required of it—much in the way of accuracy, of definitiness and of careful expression: much more in the way of loyalty.

Now Scholasticism of this ideal type is one thing and the view or theory of individual Scholastics quite another. Men have often set out with the best of intentions to expound and defend Christianity and have become in the end its adversaries. Their attempts to bolster up their private views by an alleged blending

of philosophy and theology, have issued more than once in downright heresy. Hence the controversies, long and bitter, which divided Christianity itself. The Church, obliged to condemn wrong interpretations of her doctrine, did not thereby put her bann upon the philosophical theories in which heresy sought its support. On the contrary, her firmness in maintaining the deposit of faith and in rejecting error gave occasion not only for a closer study of her doctrine but also for a more accurate reading of what the philosophers taught. Thus indirectly and unintentionally, the heresiarchs contributed to the development of Scholasticism.

A further consequence was the alignment of thinkers and scholars on opposite sides, one party approved by the Church, the other, after much discussion repudiated, yet both staking their claims upon some philosophical system. Thus while Plato was in the ascendant his doctrine was used to good effect by such men as Justin Martyr, Irenaeus, Clement of Alexandria, the two Gregorys and Basil. But Origen, hailed by some historians as the greatest of theologians and the first of the Scholastics, went beyond due bounds to conclusions that were condemned. As a result, Plato, in the sixth century, was on the wane and Aristotle became the influential factor. Here again we find the contrast between orthodoxy and heresy. Leontius of Byzantium and St. John Damascene turned the Aristotelian philosophy to the advantage of the Faith. But the Monophysites and the Nestorians took that same philosophy as the basis of their heretical teachings.

In view of these facts, it is quite intelligible that some of the foremost champions of orthodoxy, like Tertullian, should look with suspicion upon all philosophical systems. Nevertheless, philosophy comes into its own again at the hands of St. Augustine; and again its spokesman is Plato. The position of the Church is summarized in this statement from Augustine's "De Doctrina Christiana": "Philosophi autem, qui vocantur, si qua forte vera et fidei nostrae accommoda dixerunt, maxime Platonici, non solum formidanda non sunt, sed ab eis tanquam ab iniustis possessoribus in usum nostrum vindicanda." [1]

1 L. 2, c. 40, n. 60.

The allusion here to the spoliation of the Egyptians is taken from Origen; but the "maxime Platonici" shows the preference of Augustine. He could make use of Plato's doctrine all the more securely because of his own ardent devotion to Christian truth. Convinced as he was of the harmony between faith and reason, he continually insisted that the one was indispensable to the other. "Intellige ut credas; crede ut intelligas." No marvel, then, that in respect of doctrine he became the model for later theologians. But also as regards systematic construction, technique of exposition and even the adaptation of the Latin language to the needs of theology, he was the forerunner of the medieval Masters. These doubtless recalled that within a year after Augustine's death, Pope St. Celestine had given him high praise as one who was above the least suspicion and had ranked him "inter magistros optimos." It was the same Pope who pronounced anathema against the Pelagians and the errors which they had bolstered up with the Stoic philosophy.

In the next century, Boethius offers a singular blending of ideas derived from the two great Greek philosophers. While his treatise "De consolatione philosophiae" takes its inspiration from Plato, his other works show that he was a disciple of Aristotle. His translation of some of the Stagyrite's more important writings and his commentaries on the same contributed largely to the development of Scholastic theory and terminology. He has even been called "the last of the Romans and the first of the Scholastics."

During the period that followed—from the eighth century to the eleventh—theological speculation clings mainly to the tradition established by St. Augustine. There is much study of details and free use of dialectical method by such scholars as Venerable Bede, Alcuin, Rhabanus Maurus, Strabo and Paschasius Radbertus. These men shared not only the doctrine of Augustine but also his love of the Church and his profound respect for authority. The same cannot be said of that other outstanding figure, Scotus Eriugena. For though he esteemed Augustine and the other Fathers, he was carried too far by his attachment to neo-Platonic theories and accorded to reason a pre-eminence over authority which savored of rationalism. For

this and also for his pantheistic tendencies he was condemned at the council of Valence (855), which rejected his "ineptas quaestiunculas et aniles pene fabulas, Scotorumque pultes puritati fidei nauseam inferentes." [2]

As to the value of dialectic, there was no question among the orthodox, least of all among the followers of St. Augustine. He had praised it as the *disciplina disciplinarum* and had used it to good purpose. But it could also be abused. As among the Sophists of old it had degenerated into mere juggling with terms and sparring in public debate, not to uphold the truth but to beat down one's opponent, so in the early Middle Ages, dialectic became simply the art of disputation, a sort of vanity box for would-be scholarship. Beneath it lay the more serious tendency to make reason the sole arbiter of truth. This was the root of the error into which Berengarius fell and for which he was repeatedly condemned by Popes and Councils.

Here again error was the occasion of a deeper searching and a more explicit declaration of Catholic doctrine. Dialecticians of the first order like Fulbert of Chartres, Lanfranc and Peter Damian took the field against Berengarius and defeated him with his own weapons. For the time being at least, the abuse was checked and the real utility of dialectic preserved.

In somewhat milder form the controversy broke afresh in the case of Nominalism versus Realism. While the issue apparently was a purely philosophical one, it had important bearings on theology. Roscelin, foremost among the Nominalists, fell into the error of Tritheism while St. Anselm defended the Catholic position. For this and for his contributions to theology, especially to the doctrine of the Incarnation, Anselm was proclaimed by Clement XI in 1720 a Doctor of the Church. He has also been styled "the father of Scholasticism."

Thus, during eleven centuries, the Church holding fast to the deposit of faith, had dealt with the activities, and often with the vagaries, of human reason in its endeavor to interpret her doctrine. Many of these attempts had resulted in heresy; many others had been genuine developments of Christian truth. By

2 Denzinger-Bannwart, *Enchiridion*, 10th Ed., No. 325.

rejecting the former and approving the latter, the Church had established ever more clearly both her own teaching and the limits within which philosophy might render to theology efficient and loyal service.

This experience and its fruits were all the more valuable and the criteria maintained by authority more necessary when the movement began which brought about the development of Scholasticism in the stricter sense. The foundation of the universities opened a new era of intellectual activity among both clergy and laity. The university was a "studium generale" not only in the sense that it received students from everywhere but also, and more significantly, in the sense that it comprised within its teaching all departments of knowledge. The contact between theology and the other sciences was no longer an exchange of thought at long range by individual writers; it became the organic relation of part to part in a corporate institution. And this body, the *universitas magistrorum et scholarium,* was alive with the spirit of inquiry stimulated by endless discussion of every conceivable subject.

For the most part, again, the universities were papal foundations. They had their charters from the Pope and were regularly in communication with the Holy See through their Chancellors or through papal legates. Inevitably, the relations of the Church with the scientific life of the universities became closer as these grew in numbers and influence—closest of all with the growing Scholasticism of the thirteenth century.

Several factors combined to make this period at the outset a time of great activity and even of sharp conflict. There was the dialectical temper which had survived in spite of much curbing and bridling. It waxed strong in the bracing atmosphere of the university and grew more impatient of restraint because of the academic freedom which even undergraduates enjoyed. In the next place, the translation and diffusion of Aristotle's works provided material for discussion in which reason seemed self-sufficient and metaphysical formulae the expression of ultimate truth. So, with glosses and commentaries and quaestiones, the Philosopher was again the master of those who knew and of all who would fain be known as progressive.

But this enthusiasm could not do away with the fact that the conservative elements had a power of their own and a voice.

There were men of deep faith who viewed the whole movement with discerning eye and with historical sense. To all this trumpeting of philosophy they listened with apprehension. For them it was the "ventosa loquacitas philosophorum"—an ill wind of words that could blow no good. To withstand it and possibly to replace it with a purer atmosphere they set up a counter current, which was Mysticism.

The leaders of Mysticism, notably the Victorines, saw little advantage, if any, in philosophy. Toward Aristotle in particular they were openely hostile. And as the Aristotelian doctrine grew to preponderance, their opposition took the form of denunciation. For this they found a shining mark in Peter the Lombard whose "Sentences," based on Aristotle, served as one of the principal texts for student and master alike. Yet the Magister Sententiarum was charged with teaching heresy regarding the Trinity. He was numbered among the "four labyrinths of France," the others being Abelard, Gilbert de la Porrée and Peter of Poitiers —all "uno aristotelico spiritu afflatos." They, it was claimed, had treated the mysteries of the Trinity and Incarnation "scolastica levitate" and moreover "multas hereses olim vomuisse et adhuc errores pullulare." [3]

These accusations made just previous to the Third Lateran Council by Walter, Prior of St. Victor, were reiterated against Peter Lombard by Abbot Joachim Fiore who died in 1202. Had he lived thirteen years longer, he would doubtless have been surprised to hear the Fathers of the Fourth Lateran Council (1215) declare: "damnamus et reprobamus libellum seu tractatum quem Abbas Joachim edidit contra Magistrum Petrum Lombardum." Nor could the Lombard himself have desired a more complete and emphatic vindication than that which he received from the same Council when it said: "credimus et confitemur cum Petro Lombardo."

This, however, did not end the struggle. The anti-dialecticians felt surer of their ground when they assailed the methods of their opponents and the abuses which dialectic too often had occasioned. For these, it could be readily shown, either betrayed a false interpretation of doctrine or would serve as a cloak for error.

3 Cf. Denifle in Archiv für Litteratur-und Kirchengeschichte des Mittelalters, I, 405.

With these opposite tendencies for a background, two figures occupy the center of the stage: Abelard and St. Bernard. Both attracted the attention of ecclesiastical authority but with widely different results. While Abelard the dialectician was condemned in several Councils, his opponent, the leader of the Mystics, was canonized and later declared a Doctor of the Church.

That the fate of Abelard, however, did not effectually check the tendency to carry dialectic beyond proper limits, is evident from the charges made to the Holy See against the University of Paris in less than a quarter century after its foundation. Pope Gregory IX in his letter (7 July, 1228) to the theologians of Paris, rebukes those who attached too much importance to philosophy, declaring that they "redigunt caput in caudam et ancillae cogunt famulari reginam." And protesting against the terminology then employed to express the doctrines of faith, he adds: "Absit de cetero quod pulcherrima mulierum a praesumptoribus stibio peruncta oculos coloribus adulterinis fucetur, et quae a suo sponso circumamicta varietatibus et ornata monilibus prodit splendida ut regina, consutis philosophorum semicinctiis, veste sordida induatur." [4]

There were abuses and the Pope knew it. He knew also that certain books of Aristotle had been prohibited as texts in Paris by several conciliar decrees and even by the papal legate Cardinal Robert de Courçon in 1215. Yet this same Gregory within three years after his condemnation of dialectic abuses, sent another letter to Paris in which he toned down the prohibition of Aristotle's texts. Shortly after, he appointed a commission to go into the whole question and determine where the trouble lay.

These continued renewals of debate, with recrudescent abuses, and swinging of thought from one extreme to another, were not calculated to make the Church look with favor on Scholasticism. There was need, more and more evident, of a genius great enough to gather up into itself the scattering rays of knowledge and pure enough to focus them, clear and undiminished in one immovable center. This was the life-work of Thomas Aquinas.

Humanly speaking the secret of his success is to be found in his intense and abiding love of truth. It was the one passion of

4 DENZINGER-BANNWART, *op. cit.*, No. 442.

his soul and it sanctified him. It compelled him to venerate the Fathers, to respect profoundly the philosophers of old, to treat with courtesy his opponents, and yet to strike at error with an effectiveness that was the surer because it was quiet.

Of his achievements it is unnecessary to speak in detail. Probably no man, apart from the inspired writers, has received from Popes and Councils commendation so unanimous and so surpassing in degree as has been bestowed on St. Thomas. These eulogies lose none of their significance when placed in parallel with various attempts to set the brand of heresy on certain teachings of the Doctor Communis. For even Aquinas, at a time when smaller men were safe, became a target. The antagonism, moreover, was voiced not only by those whose affiliation in rival Orders would make them by tradition opponents of Thomistic doctrine, but also by those of his own religious household. And yet Aquinas was destined to triumph.

It is a far cry from the days of Tempier and Kilwardby to the Council of Trent. The interval is filled with the wrangles of Scholastics and the decline of Scholasticism. There was little originality of thought but much threshing over of matters which had long been in dispute. The doctrine of Ockham which, with its germs of agnosticism, was propagated at Oxford and Paris during the first half of the fourteenth century, drew complaints from Pope John XXII (1317) and later (1346) from Pope Clement VI. Averrhoism, condemned by ecclesiastical authority in 1277, lingered on in some of the universities, notably Paris and Padua. The errors of Eckhart the mystic were proscribed by Pope John XXII in 1329.

The fate, however, of these vagaries is of minor importance. The significant thing is that even when Scholasticism in its decadence was no longer capable of the service which its great leaders had rendered, the Church continued to safeguard the wealth which they had amassed and to do them an honor which so few of their successors deserved. The best results of Scholasticism lived on in the Church and at a later time, the most critical perhaps in her history, they were enlisted anew in her service. In the midst of the Fathers assembled at Trent, the Summa Theologica of St. Thomas was placed on the altar side by side with the Scriptures.

The Reformers of the sixteenth century attacked both the Church and Scholasticism. While proposing to restore the doc-

trine of Christianity in its original purity, they struck at its fundamental truth. The Schoolmen in constructing their syntheses had taken their philosophy now from Plato and now from Aristotle. But for the doctrine of faith they had recognized its one immediate source in the authority of the Church. To assail that authority was to undermine the whole fabric of Scholasticism and to jeopardize the stability of the Church as well.

In order to repel this attack Catholic theologians provided a new line of defense. Emphasis was laid on arguments drawn from Scripture and tradition. But these were rounded out with reasonings supplied by the medieval Schoolmen. For two centuries the conflict endured with ceaseless variations of charge and counter yet always centering upon the issue—shall the Church speak for Christ, or shall the individual believer frame his creed for himself by interpreting the Scriptures as his private judgment may warrant?

Now this subjectivism which had set aside the authority of the Church, went onward inevitably to the rejection of the Bible as an infallible teacher. Also, it opened the door to a new philosophy which in the name of Pure Reason asserted that of God, supposedly the author of revelation, nothing could be known. With this agnosticism, which grew rapidly during the nineteenth century, certain tendencies among Catholics were more or less closely allied, notably those of Fideism and Traditionalism which denied reason its due share in obtaining a knowledge of God and made that knowledge an affair of faith only. In consequence, the Church which had from the beginning upheld the superiority of faith, was now obliged to defend the rights of reason. And it is worthy of note that in censuring traditionalism in 1855, the ecclesiastical authority took occasion to vindicate the method employed by St. Thomas, St. Bonaventure and other Scholastics and to defend it against the charge of rationalism.[5]

How prolific the nineteenth century was in philosophical theories and systems is too well known to call for more than a passing allusion. It has been claimed that everything is God, and on the other hand, that there is no such being as God; that everything is matter and that matter does not exist; that nature is full of purpose and that no intelligence planned it; that

5 DENZINGER-BANNWART, *op. cit.*, No. 1652.

mechanical causation determines all that happens and that cause is simply an idea; that freedom is man's highest prerogative and that no man's will is free; that knowledge is constantly growing and that we can be certain of nothing; that conscious experience is our only standard of truth and that consciousness itself is a myth.

Plainly, it was high time either to save philosophy from the whirl of contradiction or to save the human mind from so-called philosophy. Leo XIII undertook to do both.

The encyclical "Aeterni Patris" (1879) sets in clearest light the relations between the Church and Scholasticism. It marks out definitely the respective fields of theology and philosophy and shows that if reason pays homage to faith this in turn elevates reason and preserves it from error. Recalling also the merits of the illustrious men who had cooperated in building the Scholastic system, Pope Leo singles out as the greatest among them St. Thomas Aquinas and designates him as Magister for teachers and students alike.

At the same time, knowing how far the sciences had advanced since the thirteenth century, the Pope is careful to note the limitations of Scholasticism. It is the "*wisdom* of St. Thomas" that he would restore, not the vain subtleties in which some of the Schoolmen indulged nor any theory which the progress of science had finally discarded as worthless. This is another instance of the discrimination which the Church all along has manifested in her dealings with the products of human speculation. It is not what the passing mood of thought may prefer, nor what the learned and their schools may proclaim—not even what long-standing traditions of men have handed down from age to age: it is simply and solely the truth and what truth demands that the Church accepts for her guidance and follows unswervingly.

Keeping this in view, we can appreciate the attitude and the action of Leo's successors with regard to the teaching of St. Thomas. We can understand why the Canon Law prescribes that the Angelic Doctor shall be the guide of those who teach and study philosophy and theology, and why he is honored as the Patron of all Catholic schools. We can see that Pope Pius XI but writes out the verdict of history when he says: "in the tribute

paid to Thomas something greater even than the honor of Thomas is involved; and that something is the authority of the Teaching Church." [6]

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6 Encyclical "Studiorum Ducem," 29 June, 1923.

HISTORICAL ATTITUDE OF THE CHURCH TOWARD NATIONALISM

The Christian commandment of love includes every one of human kind and in that inclusion admits and postulates grades of love even as the blessed in heaven differ as star from star in glory. The Christian commandment destroys not, but is built upon and enforces the natural law. The love of the child for father and mother is stronger, deeper than his love for others. A husband leaves father and mother and cleaves to his wife. The love of one's country, of one's fellow citizens is one of the holiest and highest loves of earth. The legitimate national feelings, traditions, understandings, aspirations of a nation are not only laudable and obligatory, but they are instruments of human progress and human betterment, and, as chords of Adam, most helpful in promoting the knowledge and the love of the Christian Faith. The man who is loyal to no country will be without loyalties of any kind.

If the term nationalism were simply commensurate with these expressions of human love it would have no sinister connotation. Unfortunately, the word employed to denote the excesses of nationalism is the word nationalism itself.

And the province of this paper is to show forth certain high lights (nothing more would be possible) of the historic war of the Church against that denial of the Christian commandment of love—called nationalism. The essence of this nationalism is the belief that only those of our own nation are our brothers.

Nationalism like every other excess is not true to itself, and does not live up even to this partial love. Much is added by defenders of nationalism to their creed in the way of corollary and of supporting proof. But the essence is a narrow and therefore false idea of who our neighbor is. Nationalism says, "Let the persons of a certain nation unite and form a separate and totally independent government: let them then glorify their government and their nation: and let them be supremely selfish, reject all other loyalties and act as if they hate other peoples and other governments." The word "hate" here is used advisedly; no other word fits the indictment. It is to be noted, however, that this nationalism is not alone opposition to other nations. It assumes also a polity which seeks to canalize to the

utmost the activities of the citizen or the subject into one mould and to subordinate completely the citizen or the subject to what is termed "the nation's will."

Nationalism is not patriotism; it is the abuse of patriotism. It is degenerate, distorted and diseased patriotism. Patriotism is one manifestation of the command of love. Nationalism is one manifestation of its denial. Patriotism is love of the people of one's country. Nationalism is that perverted love and perverted submission which calls for hatred of others. The patriot loves his country, its scenes, its literature, its art, its culture, its great men, its people. He loves them so much that he is willing to sacrifice himself that they may be better, more beautiful, more useful and more true. But he does not place them above the rules of right and wrong. He does not insist upon absolute uniformity. He has other loyalties and he seeks to harmonize all his loyalties. He refuses to be the blatant national egotist this nationalism demands.

Recent historians speak of nationalism as something new. They ascribe it solely to the modern national state. They are correct only in so far as they wish to contrast vividly the autocratic nation states of the sixteenth, seventeenth, and eighteenth centuries, and our republican and constitutional monarchical nation states of the nineteenth and twentieth centuries, with the feudal and international middle ages.

Those whom Devas calls "Post-Christians" have, it is true, fashioned in these recent centuries of discovery, general literacy, and mechanical invention, a more powerful and pervasive nationalism than has ever been known before. But nationalism itself seems to be as old as recorded history.

Our Lord Jesus Christ was born into a world in which the nationalism of the *senatus populusque Romanus* had already run its course into imperialism. Christ and His Gospel clashed with that nationalism. "Render unto Caesar the things that are Caesar's and to God the things that are God's," was a rule of life that cut directly across the claims of the Roman Empire. That Christ gave no place to the divine claims of the Caesars could probably have been excused. It was intolerable to the Romans to hear Christ declare that Caesar, the embodiment of the Roman nation, the voice of Roman nationalism, did not rule all of a man's life. Christ preached that there were loyal-

ties which Caesar could not command, since above Caesar and above all men stood God Who rules all things. The Roman gods were national gods. In response to formal sacrifices they became the agents of the imperial will of the Roman nation. To Roman nationalism nothing stood above the claims of Caesar. Christ spoke the opposite. We search for a reason why Christ, when He made this frontal attack upon Roman power, was not at once seized and put to death. In the human order, we can find a reason only in the contempt the Romans of Palestine had for the meekness of Him Who came to rule the world. This charge of being the enemy of the State was in distorted form brought against Christ at His trial before Pilate. Christ was crucified not only because He declared Himself to be God but also because He had spoken against Caesar.

In imitation of Our Lord the early martyrs refused to conform to the dictates of the nationalism of that day. As at so many times since, for example in the rising nationalism of Tudor England, in the countries now where the Orthodox Church dominates, in Japan, conformity to the national religion was the sign of the perverted patriotism which the nationalism of ancient Rome demanded. Christ's followers would not conform. They loved their country: they were willing to die for country. Yet as they loved Christ, they abhorred the godlessness and the inhuman tyranny of nationalism. By their death they witnessed not only to the truth of Christ, but also to the dignity of human freedom.

Though not a martyr, Augustine, who first lived on the fringe of the Empire, where the nationalism of Carthage had clashed with the nationalism of Rome, is an example of the early Church's attitude on nationalism. Augustine was a Roman patriot. He loved Rome. Witness his letter to Bonifacius and certain passages in his City of God. But the chief characteristics of Roman nationalism he rejected. He rejected its religion. On the gods of the Romans he heaped scorn. He catalogued their crimes; he exposed their absurdities. He rejected its cult of Rome's ancient grandeurs, for whose honor Romans were killing Christians and rejecting Christianity. He told them that in the history of Rome justice and honor lived only when fear gave them birth and that when fear passed, justice and honor died; that their ancestors were usurers who had turned Italy

into a desert; that the wars between Sulla and Marius, Caesar and Pompey, Anthony and Augustus went hand in hand with a cynical oppression of the poor which ended finally in the confiscation by Augustus of their freedom. They amassed empire, he said, through wholesale brigandage. Yet as a Roman patriot he saw Rome's greatness and, in his patriotic love, praised Rome's heroes and Rome's virtues.

Augustine rejected also the demand of absolute subjection to the State. He would himself give service to his country. He would urge it upon others and, as Bishop, command it under pain of sin. Civic duties, he declared, were moral duties. These would save Rome from the dangers that surrounded it, but unqualified subjection to the State was not the right of the State.

Finally, he rejected the ambition of the Romans, and the conviction of the barbarians, who had already broken through the frontiers of the empire, that Rome was destined to rule the whole world forever. Once in a sermon St. Augustine quoted that line of Vergil's jingo epic wherein Jupiter promises Rome "eternal empire," and then exclaimed, "As a prophet Jupiter was as false as he was false as a god."

In the Christian centuries of the Roman empire, Augustine was but one of millions who by word and deed opposed the excesses which had identified Roman patriotism with nationalism. Christianity had come into a world in which people were set against people; into a world where the stranger was regarded with suspicion and hatred. Every form of tyranny was hated by the Christians, but to Rome's nationalism they were supremely opposed. Paul's words, "There is neither Gentile nor Jew, Barbarian nor Scythian, bond nor free. But Christ is all and in all," rang in their ears. The national pride, the national religion and the national autocracy stood full in the way of the new religion of Christ and His Kingdom. Christians and the Church therefore could not be other than life-long enemies, not of service to Rome nor its greatness, but of Rome's arrogant, cruel and contemptuous subjection of all things and all peoples to the pagan will of the ruling class of the Roman nation.

Rome fell. Tribes from the north overran the west. The Eastern Empire remained. The West became a mass of tribes enjoying only occasional and temporary respite from war. Yet

the chaos in the West of those early years following Rome's downfall could not be termed nationalism. Nor could nationalism be ascribed to the feudal system in the new and holy Roman Empire. Although in the crusades incipient nationalism reared its head, especially among the French, and more than a taste of it was felt in England and in the German countries, the nationalism with which the Church wrestled up to the fourteenth century was that of the Eastern Church.

By its nature, the Church was and is international and being the Church of these peoples of the West, they were united by a bond of common allegiance to a world Church. Nor had the time as yet come in Europe when men felt themselves members of a distinct nation and saw special interests which would be protected by national feeling and organization. The supernatural had, in many respects, a not unlikely natural foundation therefore upon which to work and it could mold peoples into a sense of the unity of Christendom. Indeed, where now there are nation states, there was then a federated political and social unity of Christendom which was due not to membership in the Holy Roman Empire, for all were not actually members of it, but to membership in the Catholic Church. One of the first significant facts about a man today is his nationality. The first significant fact then was whether he was or was not a member of the Mystical Body of Christ.

From the East the chief troubles came. Perhaps, also, the long trek eastward of the Crusades and the social changes marked by the new trade conditions before, during and after the Crusades, brought the change to nationalism in Western Europe. One must pass over at this time any consideration of the Eastern Church except to note that it still inherited some of the nationalism of the ancient world. Certainly language differences, cultural contrasts and political jealousies kept them schismatic more than difference of faith.

It is not fair to the facts to trace modern nationalism to any single event. Any outstanding event selected would be rather the sign of other changes, lowly and obscure. But if one event is to be selected, let it be the Babylonian Captivity of the Popes in French Avignon. It brought clearly into the open, what caused and conditioned it, the fact that new temptations to national pride and aggrandisement existed. It made evident

that each people according to its physical strength, must either be on the watch lest its national pride and national interests be offended—or, more wisely and holily, all join together to root out the nationalism. The Pope had been an international figure. His residence at Avignon with all its implications made it appear he was only a French ecclesiastical prince, ruling a world church for French aims and French profit. The Germanic emperor could not consent to this. England, struggling to free itself from political control from across the channel, could not consent. The new Spain, rising like peaks above the Moorish suzerainty, could not consent. The Italian city, states and provinces rebelled. The seamless robe of Christendom was being pulled this way and that. Would the strain be too great? We know now that like the soldiers at the foot of the cross, these men of the later Middle Ages so pulled and dragged Christ's robe that actually for a time they tore it. At the dawn of what we call Modern History, a greater and more lasting schism came which carried with it heresy and the denial even that the robe was ever meant to be whole.

Avignon, the Great Schism, the failure of the Councils were outward signs of an internal weakness and decay. The disgrace which came upon the Christian world was multiform; but its chief note was the rise of national monarchies, which, in the name of national pride and interests, sought for the king and for the oligarchy about him, greater power, greater honor and greater wealth. This was not unknown before. But it had been an aberration and had been so considered. Now men were coming to a time when it would be accepted as the basis of national and international life. Into the very ecumenical councils of the Church this nationalism was to creep. National delegations were to caucus in private, decide a policy and then debate and vote under the unit rule. The nations showed the Papacy less and less reverence. All the while the ways were being graded and paved for those economic, political, intellectual and moral forces to converge which would enable a Luther, a Calvin, a Henry VIII to do what Huss, Wycliffe and Frederick could not do. The Reformation might well be written, as a foot-note to nationalism. *"Cuius regio eius religio"* was the apotheosis of nationalism, smelling of the sacrifices offered to the national gods of pagan autocracies.

Yet to speak of this only as nationalism without further explanation would be to miss a most important point. For, let it not be forgotten that these new national states—England, Holland, Sweden, Spain and France and the petty states of Germany—were monarchical and oligarchic states, and their nationalism, though deep-seated among the people, was exploited by the oligarchy that ruled them. The people were proud and gloated in a sense of superiority over the foreigner. Through their own nationalism they were protected; and they retained their language, customs, and national integrity against the onslaughts of the greedy nationalism of their neighbors. But the chief power and the profits were going to the kings and the oligarchies, and the people everywhere were suffering at their hands. Indeed, it seems to be inherent in nationalism that the organized nation, the state, will be in the hands of men who will hate the people of other nations only more heartily than they hate the masses of their own. Nationalism defeats itself. It does not remain national: the sense of power which it acquires, leads it to become international—to prey upon other nations: to acquire further territory: to make more productive its riches. As the anarchical internationalism, which knows no security of anchorage, nationalism likewise drives the world into disorder and injustice. One begins to suspect that to understand nationalism, one must look at it in terms of the failure of internal patriotism—of that failure which distorts government from being an agency for the welfare of the people into an agency against their welfare. A ruling class exploits the masses at home and then, playing upon their love of their homeland, forces or wheedles them into deeds of hatred of other peoples. Certainly the Fifteenth, Sixteenth, Seventeenth and Eighteenth Century nationalisms were oligarchies that oppressed their people at home. And, if one looks closely at Nineteenth and Twentieth Century nationalism, one is driven to the same conclusion.

In the Fifteenth Century one might instance as examples of nationalism the conciliar movement to turn the Church actually into a federation of national churches, each under the control of a government, like the Greek Orthodox Church now; or the Hussite movement in Bohemia. But it was in the Sixteenth Century in Western and Northern Europe that nationalism came into poisonous flowering. The nations then reached self-conscious-

ness and vaulted into national egotism; the city as the unit in economic life made way for the nation; the discoveries of the Fifteenth Century were being extended and fought over: kings felt themselves secure over the old regime of feudal lords; national languages flowered; the new learning made the old paganism the delight of the intelligentzia, and the printing-press spread abroad the restless gropings of minds torn from their moorings. Nationalism had not been defeated in the Fifteenth Century. In spite of what the Church had taught and had forewarned, the newly rising national spirit had refused to learn and to accept. It would not be trained and harnessed. It had been left to run wild. And in the Sixteenth, it showed itself in great achievements but also in dastardly villainies, in national absolutist monarchies, in wars, in brigandage and piracy, in oppression of the people until often they revolted, and, finally, in a disruption of Christendom that has continued from that day to this.

There is no one who does not see that English Protestantism was the work of nationalism. England's king must have his own church for his own people; he and the men about him must have the Church's land for their own; wealth, and men who coveted wealth, must not be restrained by the moral law. Few now fail to see also that English Protestantism, after struggling along for a half-century or so among a people who were not yet Protestants, rode to victory on succeeding waves of national fear and national pride at the same time that the storms of the Channel were scattering the Armada. Henceforward, for many centuries, Catholics in England have been suspected of being un-English though they had feared and fought the Armada as much as anyone else. And henceforward, too, Englishmen and their children's children in their colonies, and in the nations into which the colonies have grown, have believed, or obscurely felt, that the Catholic is in some way a foreigner and a secret, perhaps unconscious, traitor. The Catholic did not worship the national god in the church established by national law. The followers of Anglicanism, the later evangelicals who revolted against Anglican sterility and Anglican pandering to kings and landlords, and the descendants of both, even when the last-named have long since forgotten the issues of that day and are oceans and centuries removed from it, feel their teeth on edge from the grapes their fathers ate.

What is true of England is true, with modifications, of the German states which became Lutheran, of the Scandinavian insurgence, of the Calvinist appeal, of John Knox's success in Scotland. And, on the other hand, in certain of the countries, as in Spain, in Ireland and in France, the Catholic Faith was preserved in part through the help of the same nationalism which elsewhere destroyed it, or the hatred of the foreign nationalism which would force the new religion upon them. Indeed Christendom was not only divided but some, who remained faithful, sought compromises with the morality and discipline of the faith to which they adhered. Gallicanism in France, Josephism in Austria, haggling concordats, royal privileges, kings' vetoes on the election of Popes, kings' nominations and vetoes of Bishops, the suppression of the Jesuits—these in the Seventeenth and Eighteenth Centuries and on into the Nineteenth—tell a story of nationalism weakening within the ranks of the Church its own very effectiveness.

Yet it remained for the Nineteenth and Twentieth Centuries to give nationalism a tropical growth. The new nationalism is anti-monarchical even when monarchs are retained. Primarily a business men's revolt against kings and landlords, like the earlier Puritan revolution in England, it creates as the agent of their power the nation state under a form of geographical representative government. It began in England with the Puritan Revolution. Only partially successful there, the next outbreak was the revolt of an English colony, the United States, against government from England in the interests of the English kings and English business men. The French Revolution of the late Eighteenth Century finally touched the match.

Those late decades of the Eighteenth Century saw also the beginnings of the Industrial Revolution which was to multiply the power of those who could control the means of production and the shifting forces of trade and finance. The world was to enter upon a period of swift-motion and fantastic change during which the motto, *"Laissez faire, laissez passer,"* was to cover a continuous use, when necessary, of the national state to help the rising oligarchy by threats and wars abroad and by either the right sort of laws at home or a tactful absence of laws.

One must include, too, in this growth of nationalism, Napoleon's preaching of nationalism and his actual imperialism

which by the combined example of hypocritical words and the strength displayed by the new state taught what advantages inhere in the new nationalism. The Nineteenth Century, from Napoleon's time on, was a century given over to the creation of nation states, and to rivalries among the physically stronger of these nation states to establish empires. In consequence, the Twentieth Century has been marked already by the bloodiest war in all history and by a peace treaty which created other nation states, and then sought, half-heartedly it must be confessed, to temper nationalism by a society of nations.

Midway in the march of the newer nationalism, Pius IX in his Syllabus took account of it, and proclaimed as erroneous its fundamental proposition. It is, he declared, an error to maintain that "when done for love of country the violation of a sacred oath or any crime or any infamy whatsoever contrary to the eternal law is not only not blameworthy but permitted and worthy of the highest praise." One is reminded of the motto of our own nationalists, "My Country! May she ever be right. But right or wrong my Country." When one reads the history of the Nineteenth and Twentieth Century aggression, diplomacy, imperialism and internal politics, it becomes clear that both Decatur's famous toast, turned into headline brevity for popular consumption, and Pius IX's detailed formulation of the error, express one of the most evil tendencies of our times.

The French Revolution's attempt to suppress the Church in the name of reason and national progress, Napoleon's will to make the *"servus servorum"* the servant of the master of continental Europe, Italy's ambition to subject the Pope to a national law, the Kulturkampf of Germany, the Bohemian national church, the status of the Church in certain of the Latin-American countries, Mexico's present violent persecution of the Church for refusing to subject itself to the will of the rulers of the Mexican nation-state, these come to mind quickly as examples of modern nationalism in its relation to the Church. One might add certain phenomena in Japan, Russia and certain orthodox Greek states. The Ku Klux Klan is also a manifestation of it. The Oregon law was another manifestation.

But it would be a mistake to look upon nationalism solely in its external relation to the Church as an organization. One should measure it also against the truth that peoples and govern-

ments in all their acts are subjects of God and not autonomous; are creatures and not God; that above them is Christ, their King, Who demands of them that they keep His Law. There are nation-states, which do not persecute the Church, that repeatedly sin against God's law—nations which declare war without grave cause, without seeking to negotiate a settlement, and without seeking to bring about peace, nations which crush minority peoples that have been entrusted to them, nations which in the name of an illusory national prosperity permit oligarchies to rob and oppress the masses of the people, nations which seek to extend their empire in the name of national prosperity or national defense and then oppress the peoples whom they rule.

A final distinction is necessary. Nationalism is not national self-government. Growth of national self-government and the creation by the Peace Treaties of new nation states seem to have been called for by the facts, though it is true in drawing the boundaries of the new or enlarged states, the Peace Conference made many dangerous and, as yet, unremedied mistakes. Not national self-government but the spirit in which national self-government is conducted makes nationalism. Normally a nation can best secure its welfare when it governs itself, even if for certain small nationalities, federated government and local autonomy within a large state may be best. The law of Christian brotherhood bids us extend our brotherhood from ourselves outward and we can better act as brothers in government, and others can better act towards us as brothers, when there is similarity of language, physical neighborliness and a common culture. But the law of Christian brotherhood does not call upon us to love only those within our own glorified clan, nor to be so vain as to think our nation is in all respects the greatest on earth, nor to close our eyes to its defects, nor to hold that ours is the chosen people, that no other loyalty must stand in the way of our national state, that the whole nation must be a unit, and that in its relations with other nations, a national state may rightly do anything it is physically able to accomplish. Christian brotherhood begins at home; it does not end on earth until it has circumnavigated the globe.

A generation ago Pope Leo in his Encyclical on the Reunion of Christendom bade the nations return to the unity of faith of the Middle Ages. He spoke of the "armed peace" of Europe, its

internal dissensions and the international quarrels and wars that the disruption of Christendom had intensified. In a remarkable passage he ascribed to the manifestations of European nationalism, after the brilliant promise of the first growth, the failure to convert the pagans. Comforted though by "the sentiments of human brotherhood" that had "penetrated so deeply into the souls of men"; by the eagerness of man "to seek out his fellowmen * * * in order to know them better and to help them"; by the new rapidity of travel, offering opportunities to the propagation of the Faith as well as to commerce and scientific investigations, Pope Leo declared that it is not being over-sanguine to expect in this "seasonable time" under God's Providence the healing of the nations, the binding of them together in their "ancient concord" and the restoration of the faith of Christ to its former magnificence as the central sun of man's life.

What other than this is the message of Pius XI's pontificate? His motto, "The peace of Christ in the kingdom of Christ," his first encyclical, "Ubi Arcano," his creation of the Feast of Christ the King, are all directed towards the realization of Leo's hopes and expectations, which form in turn the hope and promise of Christ and His Church.

JOHN J. BURKE, C. S. P.

THE CHURCH'S SOCIAL WORK THROUGH THE AGES

To presume to discuss historically, in a single short paper, the social work of the Catholic Church throughout the centuries, may appear somewhat like the futile task of attempting to empty the ocean with a bucket. And yet, while libraries might be written on the subject here proposed, a satisfactory outline of the main historic data is not impossible.

In practical life we are often called upon to summarize, in a few words, our entire information on large and important questions. Such a question, which is not unlikely to be asked in our day, is precisely that which my title suggests: "What has the Church done in regard to social work?"

To answer this question, at least briefly, is all the more pertinent since it is quite generally presumed that social work is a discovery of our own age, something like electric elevators, wireless photography and moving pictures.

Historically the social work of the Catholic Church is all to be traced back to the teachings of her Divine Founder and to His example. Catholic social history therefore, takes its beginning directly with Jesus Christ, and so continues unbroken in its traditions to the present day. Variously as those traditions must be applied to different times, their principles have remained unchangingly the same through all the centuries. They are based on the Gospel, and on the natural law, and so can never be susceptible of change, although their application must necessarily be multifold and various as the ever-shifting social conditions of the successive ages.

Of Christ we know that He went about doing good; that He concerned Himself not merely with the souls of men, but also with their bodily needs in order so to bring them to the knowledge and love of God, to save and sanctify them.

It is remarkable how much of the Gospel and even of the Acts of the Apostles is taken up with bodily ministration. Of our Lord's own ministry we are told: "The blind see, the lame walk, the lepers are cleansed, the deaf hear, the dead rise again, the poor have the gospel preached to them." (Matt. XI. 5.) This indeed was a Divine welfare work such as no other could accom-

plish except the Son of God. It was, in fact, the very evidence of His heavenly mission.

The parable of the Good Samaritan, which is a vivid exposition of our social obligations to our neighbor, has been the inspiration of deeds of mercy through nineteen centuries, and will continue to be such to the end of time. Such insistence indeed did Christ place upon what the Church calls Christian charity, that in His picture of the Last Judgment, He dispensed with the mention of any other test:

"Come to me, ye blessed of my Father," He says to the saved. And in offering them possession of the Kingdom prepared for them from the foundation of the world, He gives but one reason, the acts of charity performed by them in feeding the hungry, satisfying the thirsty, housing the stranger, clothing the naked, and visiting the sick and imprisoned. For whatever they did to one of those, the least of their brethren, they did it to Him.

But terrible is His rejection of those who failed in these Christian social duties:

> "Depart from me, you cursed, into everlasting fire which was prepared for the devil and his angels. For I was hungry, and you gave me not to eat; I was thirsty, and you gave me not to drink; I was a stranger, and you took me not in; naked and you covered me not; sick and in prison, and you did not visit me."

And then follows the dramatic scene where they ask Him: "Lord, when did we see thee hungry, or thirsty, or a stranger, or naked, or sick, or in prison, and did not minister to thee?"

But He answers them: "Amen, I say to you, as long as you did it not to one of these least, neither did you do it to me." (Matt XXV. 34-46.)

Can we realize what an effect these words had on the course of Christian social history through the ages? It is not said indeed, that other virtues and vices will not be takes into account, but Our Divine Saviour thought it sufficient to call our attention to these works alone.

But here, from the very beginning, we come to the distinction between mere social welfare work, and Divine charity, as Christ taught it. The work done is to be performed, as elsewhere He clearly tells us, *for His name's sake.* This makes a mere material

service a theological virtue, since it brings the act into contact with God Himself, by doing it out of love for Him. That point cannot be too strongly stressed in following the social work of the Church steadily carried on through the centuries, in joyful obedience to His Divine commandment.

The correct historical view of this work cannot possibly be given without further pointing out certain fundamental principles. Christ taught us that we have all one Father who is in Heaven; that we must therefore, all love one another, without exception, as children of this same Heavenly Father; that this love for our neighbor is to be as the very love we have for ourselves, and that finally, every man is our neighbor. But this commandment He combined with the supreme commandment of the Love of God, and as secondary to it.

Yet by loving our neighbor for the love of God, these two commandments are satisfied in one act. Here, then, is the key to whole social history of the Catholic Church.

We are often told that of course the Church accomplished good work, but that preventive work, which alone is of any consequence, was never understood by her. This, at least, we are again informed, and possibly with an air of infinite superiority, is purely a modern invention.

The preventive work of the Church, let us briefly state, was such that no modern work can even remotely approach it for efficiency. It was the prevention contained in the Gospel itself, which the Church applied, and which alone, when all is said, can abolish the vice and wickedness, the selfishness and greed, from which preventive human ills have risen.

The whole doctrine of the Gospel preached by the Church is essentially a preventive and saving doctrine. It demands present aid for human misery of every kind, but it lays down those principles by which society must be socially reconstructed, provided only that these principles are truly applied.

Christ and His Apostles did not preach a social revolution and call for the immediate abolition of slavery, as the root of countless social evils in their day. Naturally speaking, without miraculous interference this could only have led to a bloody, futile revolt, setting back still more the progress of liberation. But in the Divine doctrine of Christ itself, was contained that preventive power which in the course of time was to be a mighty

influence in hastening the emancipation of the slave and striking the shackles from those unjustly held in captivity.

The social doctrine of Christ, faithfully taught by the Church through all the centuries, has often been spoken of as "social explosive." I would prefer not to use that term. It is true that the Gospel words may prove such in certain instances, by at once transforming the life of an individual and through him effecting a change in a section of society itself. Such was the historic fact regarding the vocation of St. Francis of Assisi. It all turned upon that Gospel text where Christ tells His disciples to go out and preach His doctrines, taking with them neither money, nor scrip, nor staff upon their way.

Ordinarily, however, the Gospel of Christ works rather like the leaven which the Church places in the mass of humanity, and by which it is socially as well as religiously leavened. The process is slow and quiet, and may hardly be noticed even by those most close to it. Some evidence of it, however, will always be given. So it was that the world was gradually changed from pagan into Christian, with all the tremendous social transformation which this implied. Let us somewhat more minutely observe this social leaven at work.

Paganism had no compassion for the social ills of mankind. Its restless, hungry, and therefore dangerous masses, it kept from breeding revolution by supplying them with bread and circuses to keep them quiet. Pitiful, however, was the lot of the orphan, the widow, the socially helpless and oppressed. For these no provisions were made.

All manual labor was, under paganism, a badge of disgrace. The free toiler was moreover reduced to hopeless competition with the slave laborers. These, while the Roman conquest lasted, could be mercilessly worked to death within a few years, as was considered the most economic process, and replaced by fresh human material, since this was abundant and cheap.

With the coming of Christianity and the stablishment of His Church by Christ, a new social leaven was at once at work. Its effects could at first be felt perceptibly in the little Christian congregations alone. Slave and free mingled here in one community of love. When, in connection with the Agape, a certain discrimination began later to make itself noticeable, it was severely castigated by St. Paul.

From the very first the spirit of Christian charity showed itself in what we may call social welfare work. At every Eucharistic meeting of the Faithful, collections were taken up, which were used as alms to support the widows and the needy, or to relieve those in misery of any kind. Nor were these largesses mere doles cast out to the poor, for we can well understand the loving care with which the real welfare work of those first Christians was carried on in the homes of the needy or bereaved, of the stricken or afflicted.

The time came soon enough when the Apostles could no longer take direct care of this work, which was interfering with their ministry. When, therefore, the complaint arose that the Greek widows were being neglected in favor of the Hebrew widows in "the daily ministrations," the Apostles believed the time had come when regular social workers should be appointed for this task. They therefore called together the disciples and laid the case before them:

> "It is not reason that we should leave the word of God, and serve tables. Wherefore, brethren, look ye out among you seven men of good reputation, full of the Holy Ghost and Wisdom, whom we may appoint over this business. But we will give ourselves continually to prayer, and to the ministry of the word." (Acts VII. 2-4.)

Here we have a description of the qualities which the Apostles required for a Christian social worker; he was to be of good reputation, full of the Holy Ghost and Wisdom. It is no small demand. Seven such men were selected and St. Luke considered the appointment important enough to set down their names. So their memory is made immortal for all time in the Acts of the Apostles. The most glorious of them was to be St. Stephen, the First Martyr, but over all alike, the Apostles prayed, and imposed hands upon them.

These seven deacons, then, are the models for all future professional welfare workers in the Church.

The community at Jerusalem, however, at first carried its charity much further. Men went so far as to sell property belonging to them that they might distribute the proceeds in alms, or rather place them in the Church charity fund for that purpose. This fact, as we know, has been grossly exaggerated and misinterpreted, until these Early Christians have come to be ab-

surdly classed in certain quarters, with modern Socialists and Communists.

Needless to say that short-lived and purely local practice, which in no way concerned the Early Christian Church in general, had no Socialist connotations of any kind. The property was sold for purely consumptive and not for productive purposes, as Socialism would require. St. Peter further makes perfectly clear that there was no obligation whatsoever for any Christian to sell his property and put the proceeds in the charity fund. Ananias indeed was punished, but it was for telling a lie to the Holy Ghost, and not for keeping back any part of the price of the land. "Whilst it remained, did it not remain to thee? And after it was sold, was it not in Thy power?" (Acts V. 4). Moreover, it has been remarked that in interpreting this passage we must keep in mind the Oriental manner of speech which often intensifies a statement.

The one thing, however, which here concerns us, is the fact that full provision was made to supply all the real needs of the poor and afflicted in that community.

What the Church does teach, and has taught with insistence since the days of the Apostles, is that out of their superfluities the wealthy are to give to those in need, while alms-giving is continually preached to all as a Christian virtue. Pope Leo XIII, in his Encyclical on "The Condition of Labor," excellently summarizes the social welfare work of those first Christian communities:

> "Such was the ardor of brotherly love among the earliest Christians that numbers of those who were better off deprived themselves of their possessions in order to relieve their brethren; whence 'neither was there any one needy among them.' To the order of Deacons, instituted for that purpose, was committed by the Apostles the charge of the daily distribution; and the Apostle Paul, though burdened with the solicitude of all the churches, hesitated not to undertake laborious journeys in order to carry the alms of the Faithful to the poorer Christians.
>
> "Tertullian calls these contributions, given voluntarily by Christians in their assemblies, 'deposits of piety'; because, to cite his words, they were employed 'in feeding the needy, in burying them, in the support of boys and

girls destitute of means and deprived of their parents, in the care of the aged, and the relief of the shipwrecked.' (*Apologia Secunda* xxxix.)"

In that last passage, from Tertullian, it is made clear that every form of social welfare work which the time called for, was thoroughly practiced by the early Christians in the first centuries, so far as that was possible for them in the midst of persecutions.

When we now come to the period when the Church emerged from the Catacombs, in the day of Constantine, we must not imagine, as is generally done, that we suddenly find ourselves in a world become Christian. That is far from the historic truth. The Roman world was still largely pagan. It remained so for no inconsiderable time. The results of paganism were to continue to show themselves even when Christianity had at least been nominally accepted, and all the efforts of the Church did not avail to avert the final destruction for which paganism had prepared the way.

By a strange perversity the Church is always held accountable for the fate that befalls those who neglect her warnings and fail to accept her exhortations. By her very existence she is even held accountable for the actions of men who are in no way connected with her and spurn her teachings. This was grossly exemplified in the World War, which was the result of a deliberate rejection of her mission and her message. Yet, in spite of these facts, every effort was made by her to stay that calamity. Truly conscious of her social mission, she called upon the rulers of the warrings nations, upon statesmen and parliments, that they might lay aside the thoughts of greed, hatred and revenge, and preached to all the world the peace of Christ in the Reign of Christ.

So in the late Roman centuries, preceding the barbarian invasions, before the more virile races of the earth swept away the civilization built up through the preceding milleniums, the Church did all in her power to awaken a social conscience, no less than to arouse a spirit or religious fervor in the people. In a great measure, too, she succeeded, as the heroic lives of the numerous Saints of that period clearly indicate. She indeed completely transformed the hearts of those who heeded her and we find on their part the most wonderful blossoming of social works.

Such is always the case wherever the Church and her doctrines enter into the practical lives of the people. Beautifully and accurately Bishop Ketteler wrote of the social transformation wrought:

> "There was a time when the ancient patrician families of Rome were far removed indeed from Christianity; when a Roman matron daily employed hundreds of slaves to adorn her person. But a time came when the children of these families liberated their slaves, with their fortunes covered Italy with institutions for the poor, and even sacrificed their lives for the love of Christ. Christianity is so wonderful!" (*Die Arbeiterfrage und das Christentum.*)

But never, on the other hand, were stronger words spoken from the pulpit or platform than the sermons addressed in those days by the great Fathers of the Church, to the rich men grossly guilty of neglecting their duties towards the poor. So mightily did they direct their appeals or denunciations to the consciences of these men that their words, clipt out of their context, are also misused to class these great luminaries of the Catholic Church with Socialists and Communists.

They were neither Socialists nor Communists even though they did speak in strong terms of the wealthy men of their day, who entirely neglected every social obligation. They were neither Socialists nor Communists, even though they did insist all things should be in common, meaning thereby, that enough should be supplied out of the superfluities of the rich to support the poor, and that social justice should be done to all men. In a word, they demanded that all should be able to live from the goods of the earth, which the Lord created for all. But in vain did the Church strive to stay the decadence of those days.

Then it was that, wave by wave, the great barbarian deluge advanced, until finally it swept over all of Europe. Ever-youthful, possessed of the same divinely given energy which was hers in the days of the Apostles, the Church now began anew her twofold work, religious and social. In those new conquerors, fierce, wild and uncouth, she not seldom found better material to work upon than in the civilization they had trampled under their horses' hoofs and crushed beneath the march of their armies. But to civilize them in turn was the task of centuries.

It is needless for me to delay upon what all the world knows. Catholic priests, Catholic monks accomplished this greatest of all social works in the history of mankind, if we except the planting of the Gospel itself in the days of the Apostles. It was the Catholic Church that now not merely brought to these people the Cross of Christ, but with loving care and kindly patience, taught them the practices of agriculture, and instructed them in the crafts and arts. In the meanwhile, the learning of the ancient world was preserved by her for a larger day, when she would be able to cover Europe with her stupendous universities, those mighty centers of learning, where the keenest wits of the ages clashed in intellectual arguments.

Where, today, are the thinkers, the builders, the master artists who can compare ever so remotely with the men of genius whom the Church then produced? At the same time her social efforts were crowned with equally resplendent success in her wonderful gild institutions, which soon spread over the entire Christian world.

I am not exaggerating when I say we are as far today in our economic life, from approaching the ideals of social justice realized by the Catholic gilds in their perfection, as in our art we are from equalling a Raphael and Michaelangelo, or in our architecture from being able to repeat the marvel of the medieval minsters. The Catholic gilds, at their height, are in themselves social masterpieces and works of Christian genius, comparable with the great cathedrals themselves which the members of the same gilds erected as the triumph of their Eucharistic devotion.

The gilds were by no means always equally praiseworthy. I am speaking of them only in their perfection, when they expressed most adequately the Catholic social ideal. Those who fail to see how vastly this surpasses anything we have as yet achieved in the social efforts of our day, simply fail as yet to realize what a thoroughly Christian social order would imply. Preceding centuries during which the Catholic spirit had been deadened in the world, have so far removed us from the Christian social ideal in practical life that it is often difficult for Catholics themselves to comprehend it, although our lines are now cast in better days than during earlier decades.

Perhaps the main reason for the misunderstanding that still exists in regard to the gilds is the utterly baseless assumption

that we would wish to revive these institutions today as they existed in the Middle Ages. No sane social thinker can imagine such a thing. To implant a medieval gild on our modern large-scale industry, would be worse than to perpetrate the Horatian monstrosity. It simply would be impossible, and no one dreams of attempting it.

What we desire is to revive the ideals of the gilds and the spirit that animated them. The principles applied in the days of the gilds are precisely the same that we must again adopt if we would found our industrial relations upon a truly Christian basis. The fact is that today the most progressive efforts at industrial reconciliation and harmony are precisely along the old Catholic gild lines. All true modern progress is pointing in that direction.

The dreadful debacle that followed upon the coming of the industrial revolution, and had already been prepared for even in the days preceding the Reformation, was due to two main causes. These were, Pope Leo XIII stated at the very opening of his Encyclical on the Condition of Labor: the destruction of the trade organizations and the setting aside of the divinely given authority of the Church. Briefly he then wrote:

> "For the ancient workingmen's gilds were abolished in the last century, and no other organization took their places. Public institutions and the very laws have set aside the ancient religion. Hence by degrees it has come to pass that workingmen have been surrendered, all isolated and helpless, to the hard-heartedness of employers and the greed of unchecked competition."

To this was added that other aspect of the laissez-faire doctrine, promoted by the Liberals and Individualists of that day, which prevented all state interference in the industrial field. This is equally condemned by the great social Pontiff. It effectually made the workingman's conditions doubly helpless.

To combat these conditions there now rose up within the Church truly great and illustrious social leaders whose work lives after them, even if just recognition has by no means been given. They poineered the legislative movements for the protection of the working classes, which gradually came to be universally accepted, and stood out prominently among the earliest as well as the most vigorous of their champions.

Naturally we here think in the first place of Bishop Ketteler, who already promoted his social principles in the days when Marx and Engels flung before the world their Communist Manifesto, in 1848. But it was his doctrine that finally won the ascendancy.

Labor unionism, although so terribly abused by the Socialists of his day, was nevertheless in itself, he held, "an idea that rests on the Divine order of things and is necessarily Christian, though the men who favor it most, do not recognize the finger of God in it, and often even turn it to a wicked use." The absurdity of the capitalistic Liberalism of his day reached its climax when the Christian labor unions established by him were suppressed by Bismarck in the *Kulturkampf*, as being Socialistic institutions. In 1870 they had already numbered almost 200,000 members.

His program of legislation for the protection of the workingmen embraced practically every substantial measure that has been taken since his day. He demanded abolution of child labor, protection of women labor, limitation of working hours for the younger factory employees, closing of unsanitary shops, regulation of working hours, Sunday rest, the obligation of caring for those temporarily or permanently incapacitated in their industry, legislation favoring co-operative associations of workingmen, and above all the strictest factory inspection by duly appointed officials to see that every item of labor legislation was minutely carried out. His own constructive activities resulted in social establishments of every kind.

Yet Bishop Ketteler was but one of many Catholic social leaders. Each country produced its own. In Germany a large group of active and prominent leaders arose. The Center party, moreover, transferred the social doctrines of these men to the political field.

In France the same was true. Much of the best labor legislation of the land had been first introduced by Count Albert de Mun or other Catholic social leaders, but passed into laws years later when sponsored by other names. Side by side with de Mun stood Count La Tour du Pin. Yet these represented but one school of French Catholic social thought.

Not merely were gild ideas strongly promoted by Catholic leaders, but the entire idea of Functional Representation, which

is looked upon as a rather recent suggestion, was vigorously developed in a Christian sense by the French Social Catholics. Their plan was to give to the different industries, and to agriculture as well, a distinct functional representation alongside of the present purely geographical representation in political life.

Austria, similarly, had its Catholic leaders of profound social insight, such as the brilliant Baron Karl von Vogelsang, a Prussian by birth, but who made Austria the land of his adoption. Meanwhile the high social position of Prince Aloysius von Lichtenstein enabled him to attract public attention for these social views where others would have failed to obtained a respectful hearing. Karl Lueger, on the other hand, made practical application of his own progressive theories, while Mayor of Vienna.

Switzerland produced its Cardinal Mermillod, who with the enthusiasim of a Bishop Ketteler, awakened his country to the importance of the social question. He understood the mighty movement of the working classes and pointed out its possibilities for evil or for good. Like the Catholic leaders of the countries already mentioned he strongly advocated reasonable state interference for the protection of labor interests. Most active in the political field was Gaspard Decurtius, who sought the co-operation of all parties for his social plans.

In Belgium, Charles Perin was without doubt the most popular figure around whom Catholics finally rallied, and whose moderate views were espoused in preference to those of the more radical wing.

Any of the countries here mentioned would call for a paper far exceeding the present in length. The same is true of others not mentioned here. The social-action work of Italy has repeatedly drawn forth laudatory comments from the Holy See, but little is known in general of some other countries whose Catholic welfare work or Catholic industrial legislation has much to offer that is of keen interest. Attention should here be called in particular to the struggle carried on in the Slav nations by Catholic leaders, whose efforts have often been put forth successfully in the political arena.

In the English-speaking countries I need only refer to Cardinal Manning, whose utterances on industrial problems were unusually bold and strong, and to the work of Cardinal Gibbons

that attracted the eyes of the world in his defense of the Knights of Labor before the Holy See.

Needless to say, the greatest of all labor documents was that given to the nations of the earth by Pope Leo XIII in his famous Encyclical on "The Condition of Labor." He has rightly been called the Pope of the Workingman.

In Ireland we have the joint Pastoral Letter of the Bishops on the Labor Question, and joint pastorals have similarly been issued by the Episcopates of other countries dealing with this same subject. France, Germany, Austria and the United States give us examples of this. But to go into further details would lead me far afield. Enough has been said to show the Catholic energies that have been let loose in connection with the great social question of our own times. I need but point to the N. C. W. C., the Central Verein, the great Catholic Social Weeks of Europe, the Christian Labor Union in the Continent and our Charities organizations.

Perhaps the name of Ozanam, as of particular brilliancy, has been missed in my limited enumeration. I have purposely left him for the last that I might here refer to the social welfare work on the part of the laity, which owes so much to him.

He, himself, as we know, owed his social vocation to the taunt of the Saint Simonians, the Socialists of his day. "You have good reason," they said, referring to Ozanam and his fellow students at the Paris University, "to talk of the past. There was a time when Christianity worked wonders, but now it is dead. In fact, what are you doing, you who boast of your Catholicism? Where are your works that prove your faith, that can make us respect and accept it."

Christianity was not dead. Christianity was working wonders then. The time moreover was coming for a spiritual revival throughout the world. But the challenge was pertinent. What were they doing to make Christianity respected in their own circle.

In answer to this arose in the course of time the truly wonderful Society of St. Vincent de Paul. Yet this was but one of the innumerable Catholic lay organizations for social welfare work that have been established everywhere. Let us but study a directory of Catholic charities and realize how numerous and how

manifold in their activities they are. Catholic charity, and therefore also Catholic social work, was never dead at any period of time, and never will be dead so long as the Church exists here upon earth, and that will be until the end of days.

It is true that in the past, Catholic social activities were seldom listed and have never been trumpeted abroad, and that is the reason why even Catholics themselves were not aware of the tremendously extensive and comprehensive social welfare work that was everywhere being done within the Church. Only a thorough survey, such as that initiated by Cardinal Hayes for his Archdiocese of New York, could make us conscious of this fact.

But, above all, no secular social activities throughout the world can compare with the vast work that has been done in the social field by Catholic priests and by the members of the Religious Orders and Congregations, through the course of all the centuries. In every generation and in every land we find them at work, thousands upon thousands, devoting their entire lives to prayer and doing good to their fellow men, for the pure love of God. Not a bodily ailment, not a human misery, not a life stricken or a soul tarnished, but there were religious men and women, wearing the garb of Christ, who gave themselves up to minister, with all their strength and all their gentleness of love, to those in need.

The aged, the orphaned, the sick, the impovished, the defective, the morally endangered, the fallen, were all alike made the specific object of some institution or other of Catholic charity. Schools were opened everywhere for the education of youth in Christian principles, which surely is the highest of all social services that can be rendered to any community, and the greatest of all preventive measures that can possibly be taken. But, finally, as a direct and immediate social influence, as both a corrective and preventive social means, what human agency can compare ever so remotely with the Catholic Confessional?

But more even than all this, the Church through all the centuries possesses within her that source of social as well as private influence, all-powerful and all-Divine, the Eucharist, "God with us," in Holy Mass, in Holy Communion, in the Sacred Presence

on our altars. Here is the sovereign social remedy for the ills of all the world.

What then can equal the social history of the Catholic Church? With her welfare work entered on a glorious course, through her alone it reached its sublimest height. Transformed into Christian charity it became Divine. Meanwhile, through all the ages, her doctrines of social justice, lit as beacons on her everlasting hills, shone forth to the world.

JOSEPH C. HUSSLEIN, S.J.

THE ATTITUDE OF THE CHURCH TOWARD FREEDOM OF SPEECH

I regret that it has been impossible for me to make the study and investigation that would be necessary in order to present this subject historically. Under one aspect the history of freedom of speech in the Church is extremely simple: the doctrine and practice of the Church on this subject are so logical, inevitable in fact, that they have been always the same. The freedom of speech, writing and teaching which the Church permits and authorizes and the limitations which she places to the exercise of these activities, are fully and clearly stated in Pope Leo XIII's Encyclical on "Human Liberty." At no time in the history of the Church has her attitude varied from that set forth in the following paragraphs from the Encyclical just mentioned:

"We must now consider briefly *liberty of speech,* and liberty of the Press. It is hardly necessary to say that there can be no such right as this, if it be not used in moderation, and if it pass beyond the bounds and end of all true liberty. For right is a moral power which—as We have before said and must again and again repeat—it is absurd to suppose that nature has accorded indifferently to truth and falsehood, to justice and injustice. Men have a right freely and prudently to propagate throughout the State what things soever are true and honorable, so that as many as possible may possess them; but lying opinions, than which no mental plague is greater, and vices which corrupt the heart and moral life, should be diligently repressed by public authority, lest they insidiously work the ruin of the State. The excesses of an unbridled intellect, which unfailingly end in the oppression of the untutored multitude, are no less rightly controlled by the authority of the law than are the injuries inflicted by violence upon the weak. And this all the more surely, because by far the greater part of the community is either absolutely unable, or able only with great difficulty, to escape from illusions and deceitful subtleties, especially such as flatter the passions. If unbridled license of speech and of writing be granted to all, nothing will remain sacred and inviolate; even the highest and truest mandates of nature, justly held to be the common and noblest heritage of the human race, will not be spared. Thus, truth being gradually obscured by darkness,

pernicious and manifold error, as too often happens, will easily prevail. Thus, too, license will gain what liberty loses; for liberty will ever be more free and secure, in proportion as license is kept in fuller restraint. In regard, however, to all matters of opinion which God leaves to man's free discussion, full liberty of thought and of speech is naturally within the right of every one; for such liberty never leads men to suppress the truth, but often to discover it and make it known.

"A like judgment must be passed upon what is called *liberty of teaching*. There can be no doubt that truth alone should imbue the minds of men; for in it are found the well-being, the end, and the perfection of every intelligent nature; and therefore nothing but truth should be taught both to the ignorant and to the educated, so as to bring knowledge to those who have it not, and to preserve it in those who possess it. For this reason it is plainly the duty of all who teach to banish error from the mind, and by sure safeguards to close the entry to all false convictions. From this it follows, as is evident, that the liberty of which We have been speaking, is greatly opposed to reason, and tends absolutely to pervert men's minds, inasmuch as it claims for itself the right of teaching whatever it pleases—a liberty which the State cannot grant without failing in its duty. And the more so, because the authority of teachers has great weight with their hearers, who can rarely decide for themselves as to the truth or falsehood of the instruction given to them. . . .

". . . Yet, with the discernment of a true mother, the Church weighs the great burden of human weakness, and well knows the course down which the minds and actions of men are in this our age being borne. For this reason, while not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good. . . .

"From what has been said, it follows that it is quite unlawful to demand, to defend, or to grant unconditional freedom of thought, of speech, of writing, or of worship, as if these were so many rights given by nature to man. For if nature had really granted them, it would be lawful to refuse obedience to God, and there would be no restraint on human liberty. It likewise follows that freedom in these things may be tolerated wherever

there is just cause; but only with such moderation as will prevent its degenerating into license and excess."

Occasionally an extreme defender of free speech asserts it as a right without any limits. It may well be doubted that any sane person ever accepted this view without qualifications. Certain it is that no government has ever permitted complete freedom of speech on all subjects. Statutes prohibiting libelous attacks and the public expression of obscenities are obvious samples of restrictions imposed by all governments. After all, a person has no more right to use his tongue as he pleases than to exercise a similar liberty with his feet or his fists. The vocal organs are not independent of the moral law.

The really interesting historical question in relation to the Church's attitude toward freedom of speech arises in connection with the public expression of theories and doctrines which lie within the border land of faith and science. Doctrines, theories and hypotheses which are completely within any of the positive sciences, physical, social, ethnological and the rest, never come under the unfavorable notice of the Church. With regard to all these subjects she concedes the fullest freedom of expression. When, however, doctrines and statements are put forth in the name of science which involve questions of faith or morals, they cannot escape the cognizance of the Church. For example, materialistic evolution is sometimes taught under the guise of biological science and materialistic socialism upon the alleged authority of economics. In these and similar situations the questions involved are no longer those of pure science. The speakers or the writers have entered the border land where religious faith and natural morality have something to say. As the divinely appointed guardian of both, the Church must prevent unreasonable freedom of speech, that is, the freedom to disseminate errors and to injure human souls.

Since the authorities of the Church are human, they are subject to the possibility of making mistakes in exercising this restrictive function. The only exception occurs when the Pope speaks infallibly. In any other situation it is possible for a person holding authority in the Church to forbid, as contrary to faith or morals, the expression of a doctrine which in reality is not of this character. However, the historical instances presenting mistakes of this sort are both few and unimportant.

The outstanding one is the case of Galileo. The Congregation of the Inquisition in the year 1616 forbade him to teach the Copernican theory of the mobility of the earth, and this prohibition was promptly confirmed by Pope Urban VIII. The Roman authorities took this action on the ground that the Copernican theory was contrary to the teaching of Holy Scripture. As we all know and as the world has known for a long time, this assumption was incorrect. The Congregation and the Pope were mistaken. However, one major error of this sort in the course of nineteen hundred years does not indicate that the Church has seriously interferred with freedom of speech in the field of science. In fact, it indicates exactly the opposite condition.

Of more practical importance is the question whether the Church has not hampered useful freedom of speech and writing by forbidding and discouraging the teaching of scientific and social theories, not on the ground that they are clearly contrary to faith or morals, but on the assumption that they are dangerous or inopportune. At one time or another political, social, scientific and philosophical theories have been denied freedom of expression by one bishop or another and sometimes by a Pope. Later on many of these doctrines came to be universally accepted and recognized as involving no danger to faith or morals. Most of these instances are susceptible of reasonable explanation, if not always of complete justification, in the particular circumstances that surrounded them. At any rate, the policy of vigilance in order to prevent harmful freedom of expression in these instances has produced more good than evil. At the worst, it has merely deferred the propagation and acceptance of useful doctrines and information; on the other hand it has prevented the dissemination of teaching that was premature and inopportune. The late Wilfrid Ward presented a very able and entirely reasonable theory of this situation in a paper read at the Catholic Conference in England in the year 1900. Throughout her entire history, he maintained, the Church has exhibited the double attitude of resistance to extreme doctrines and subsequent assimilation of the elements of good which they contain. This two-fold attitude he denominated "constructive conservatism." The following paragraphs from Mr. Ward's address are particularly suggestive:

". . . . True conservatism involves constructive activity as well as resistance to destructive activity. Periodical reform and reconstruction belong to its very essence.

". . . There are two classes of enemies to the true conservatism which would preserve for present use an ancient building—those who would pull it down, and those who would leave it untouched, without repairs, without the conditions which render it habitable in the present, superstitiously fearing that to alter it *in any respect* is to violate what is venerable and sacred. . . .

"And so the Church, with a true and not a false conservatism, has in the past resisted both classes of foes. The aggressive movements of the times she has opposed. To yield to them would have been to identify herself with partly false, partly one-sided and exaggerated phases of thought, and lose her own authority and her own individual character. But each movement witnessed to a real advance of human thought, new truth amid new error, and to fresh developments of human activity. . . .

"The difference between the two processes is, as Cardinal Newman has pointed out, that the first process, of resistance, is the work of authority, of Rome itself; the second, of assimilation, is the work of individuals, authority only tolerating and not necessarily helping it, until it is so far tested that authority can more or less ratify what individuals have initiated.

"The palmary instance of the assimilative activity—because the change was greatest—was the complete adaption of theology to Aristotelian philosophy and to dialectical treatment by St. Thomas Aquinas. A reader of St. Bernard's letters would deem it almost impossible that, in the century following his time, a system should prevail in the Church containing so much which St. Bernard bitterly resented and condemned in Abelard. The feat was accomplished by a saintly theologian, who was devoted to and impregnated by both the Aristotelian philosophy and the Catholic tradition of the Fathers. . . . .

". . . While in the Encyclical 'Mirari Vos,' Gregory XVI condemned the liberalistic theory of Lamennais, we have seen ever since its appearance, among the most orthodox in Lammenais's own country from Lacordaire himself to the Comte de Mun and M. Harmel, active sympathy with the democracy. . . .

". . . Those who in the Universities or elsewhere are keenly interested in the social, intellectual, or scientific movements

of the time find themselves face to face with a number of problems which are freely discussed. And they find it sometimes assumed as evident by their non-Catholic friends that the Church is hopelessly reactionary, and does not face or realize conclusions which are, to those with whom they associate the assured conquests of modern society. To fix our ideas with obvious instances, they see those outside the Church busy adapting Christian teaching to modern biblical criticism, and to the broad results of the evolutionary hypothesis. They see that so far as the Church herself has taken a public line in these questions it has been almost entirely hostile. . . .

"Now, if we realize the systematic action of the Church in the past, to which I have called attention, the difficulty presented by this attitude is far less than appears at first sight. It is a patent fact that both the Higher Criticism and the theory of Evolution were first brought prominently before the European mind in a form hostile to Christianity. The first instinctive action of self-protection, of conservatism, on the part of the Church, has been necessarily to oppose them. But while the broad, official, authoritative action of the Church is still maintaining an attitude of opposition, many Catholics in England, Germany, France and elsewhere are, in the retirement of their studies, working out a 'modus vivendi' between Faith on the one hand, and the assured or probable results of Science and Criticism on the other. It is a very close parallel to what happened in the thirteenth century in reference to Aristotle's philosophy. . . .

"Take, again, the social movement. To press the theories of socialism on the Church is to court rebuff from those in authority. It is exactly such an 'ism' which the Church must oppose. Yet this is what radical reformers would more or less attempt. But for the Church to hold its place and influence in a democratic age is a real and more practical problem, a problem which Leo XIII has so boldly faced in the Encyclical 'Rerum Novarum.' Those who would simply resist the democracy are not real conservatives. For simply to resist it is to fail to preserve the influence of Catholicism on the people. In this department, as in others, the forces of contemporary thought and life would undermine the Church if the Church did not deal with, understand, and partly assimilate them.

"Take, again, the modern cry for liberty of discussion and the liberty for all to read what they please. The radicals would simply open the door wide to such a programme. The Church has always guarded the faith of the weak, has always recognized the plain fact that wild, random, unbelieving talk or reading may upset their faith. 'Novelty,' says Cardinal Newman, 'is often error for those who are unprepared for it from the refraction with which it enters into their conceptions.' The Church cannot sweep aside the principle on which she has always acted. The real question is, Does the existing machinery for controlling the dangers attendant on the free circulation of heresy and dangerous reading do its work? The days when to prevent the reading of any heretical statement was the great aim were very different from the present—in which practically many of us must know most of what is said against the Church and the faith, and our great desire is to find the most effective antidote. An honest and able, though not faultless, attempt to grapple with difficulties may save the faith of many. . . .

"So, too, with the Higher Criticism. Catholics cannot now ignore or simply oppose it. Its extremest conclusions already stand condemned by Christianity. It now remains to perform the second operation—to examine carefully and candidly what are the true conclusions to which it should lead us. . . .

"One word more. These and many similar necessities press upon many minds in England and America according as they come into contact with the special problems concerned. To one man biblical criticism seems all in all. To another receptiveness in philosophy appears most important; to another the sympathy of the Church with the democracy. Our mixed populations belong to many creeds, yet with many common aims and aspirations help to bring about this condition of things. The people we meet raise the questions, and we desire to be able to treat them intelligently. We know that where Catholics live apart from their neighbors, such problems are less urgent. What is not irksome infringement of the liberty demanded for effectual action in a Spanish Catholic may be so for an educated Englishman or American. And general rules from headquarters which are obviously satisfactory in one case may be unsatisfactory in the other. In a vast empire like the Catholic Church this is at times inevitable. And it is beyond doubt that,

when rules do not apply because they were made for other circumstances, the rulers desire full information as to the practical difficulties of the situation. Each man who finds such rules practically impossible to obey would be urged by them to make representations to that effect in the proper quarters."

JOHN A. RYAN.

THE ORIGIN OF SOUND DEMOCRATIC PRINCIPLES IN CATHOLIC TRADITION*

One of the reasons alleged for our entering the late war was that we might "make the world safe for democracy" by overcoming a power which, if victorious, threatened its extinction. No sooner was peace declared than it became evident that something would have to be done if democracy was to be made safe for the world. At the present moment, with the imperative need of establishing something of a world order if peace is to be maintained among the nations, the difficulty of obtaining immediate and telling results when governments are democratically controlled has led to the overthrow of all democratic forms in some instances, and even in the case of those nations whose traditions have been most definitely democratic there is a widespread skepticism as to the ultimate value of democracy itself. This being so, the Pope's recent condemnation of *l'Action Française* cannot but have come both as a surprise and a reassurance to many, for whereas not so many years ago the exaggerated claims of democracy were condemned in the case of the *Sillon,* we now have a definite repudiation by the Church of the traditional pagan principles of a particular monarchial group.[1]

I

Hence at such a juncture it would seem pertinent to ask ourselves what the Church's attitude towards democracy has been, viewed in the light of her history. Such a question cannot be other than timely for us as Catholics seeing that we have been hard put to it at times to explain to our fellow countrymen how it could be that the Church is not identified with monarchy when appearances seemed so much to the contrary. Have not all the Catholic countries been absolute monarchies in the past? And are not all Catholics in the Latin countries predominantly monarchical in their leanings or even violently opposed to whatever savors of democracy? The answer, of course, was simple from our point of view and from the knowledge we had of our own Faith as well as from our understanding of the Church as an in-

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1 J. VIALATOUX, *La Doctrine Catholique et l'Ecole de Maurras, passim,* esp. p. 49; JACQUES MARITAIN, *Primauté du Spirituel,* p. 117.

stitution. But to those outside it remained anything but obvious or convincing. Yet when in the condemnation just alluded to the Pope emphatically declared that the Church was indifferent to particular forms of government, he was but reiterating what St. Augustine had prophetically proclaimed ages ago, saying:[2]

> This heavenly City, while it sojourns on earth, calls citizens out of all nations and gathers together a society of pilgrims out of all languages, not scrupling about diversities in the manners, laws and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace. It, therefore, is so far from rescinding and abolishing these diversities that it even preserves and adopts them so long as no hindrance to the worship of the one supreme and true God is thus introduced. Even the heavenly City, therefore, while in its state of pilgrimage avails itself of the peace of earth, and, so far as it can without injuring faith and godliness, desires and maintains a common agreement among men regarding the acquisition of the necessaries of life, and makes this earthly peace bear upon the peace of Heaven; for this alone can be truly called and esteemed the peace of reasonable creatures, consisting as it does in the harmonious enjoyment of God and of one another in God.

The first thing to be noted in these early expressions of the Church's attitude toward what we now call the state is the full consciousness of the Church's independence and autonomy. When Constantine proclaimed Christianity to be the religion of the empire, the effect was not to give legal existence to a mere voluntary society, as our separated brethren would like to believe, but a definite acknowledgement of her distinct character as a Divine institution, with her own organization, her own jurisdiction, and her own law. Of this we have evidence of the most striking order in the Council of Nice, at which some 318 bishops, meeting for the first time to settle matters of dispute on the basis of a common Faith and discipline, gave a startling manifestation of the silent development that had taken place independently and even in the face of bloody persecution at the hands of the state. Thus clearly did the Church stand out fully organized in

2 St. Augustine, *De Civitate Dei*, Bk. XIX, Ch. 17.

her head and members and plainly acknowledged to be the same as we know her at present. This was a stupendous event indeed, but strangely enough there is one aspect to the peaceful revolution thus entailed that has been commonly and almost wholly blurred. We refer to the tremendous and even radical change that all but immediately resulted not only in the positive law of the times, for this has been, if grudgingly, admitted, but in the whole theory of law and government, in consequence of the recognition of the Church with her new and definite teaching and her distinct and separate discipline.

Writing to a certain Anulinus, Constantine declared:[3]

> It is my will that these men within the province entrusted to thee in the Catholic Church, over which Caecilianus presides, who give their services to this holy religion and whom they commonly call clergy, shall be held totally free and exempt from all public offices to the end that they may not by any error or sacrilegious deviation be drawn away from the service due to the Divinity, but rather may devote themselves to their proper law without any molestation.

Such an act by a Roman emperor was already a recognition, at least implicitly, of a limitation imposed upon his absolute power, seeing that it clearly amounted to an acknowledgment of the validity of a law not proceeding from his own imperial will. But Constantine, as we know, always retained a hankering for the pagan claim to divinity of his predecessors. It was left for Theodosius the Great to seal the alliance between the empire and the Church, which Honorius his son subsequently affirmed and strengthened. When the former was reminded by St. Ambrose that "the emperor is in the Church, he is not above the Church," he submitted. Later, Honorius, writing to Theodosius the Younger, gives us valuable evidence of the new basis that was being supplied to law in consequence of the change that had taken place in fundamental ideas. He writes:[4]

> We cannot refuse to plead with Your Kindness in any of the causes in which our assistance is asked. But in those in which the wishes of the holy and apostolic See are involved, we ought of necessity to show the greater anx-

3 Eusebius, *Hist. Eccles.*, 10.7.

4 Hoenel, *Corpus Legum ab Imperatoribus ante Justinianum Latarum*, p. 240.

> iety and zeal. For seeing that our imperial rule is ever guided by Divine favor, there can be no doubt but that the church of that city is especially to be venerated by us from which we derive both the Roman principate and the magisterium of the priests. Even so the delegation will have to ask nothing more of our devotion than that which accords with the discipline and equity of the Catholic Faith. For it requests that these privileges long since established by our fathers and securely kept, even to our own day, be allowed to last unchanged. And in this matter Your Highness sees that nothing should be canceled from the ancient decrees where the provisions have been drawn up in conformity with canon law. So now that these utterances have been duly recorded, keeping ever in mind the Christianity which the Divine mercy has poured into our hearts, after you have set aside all considerations of these matters said to be advanced stealthily by various bishops throughout Illyricum, let Your Majesty command that the old order be safeguarded lest under Christian rulers the Church wantonly lose what under other emperors she did not yield.

Giraud, a great French jurist, gives something of a hint as to the fuller significance of all this when in treating of the gradual disappearance of Roman law in the West he says:[5]

> The Roman form, i.e., that form which gives a peculiar color to the system of social laws rapidly disappeared. There was no longer any Roman law properly so called; the imperial constitutions, the Theodosian Code, the canons of the Councils, were only a primitive form of the canon law developed in the Middle Ages, which was in itself only a transition to the laws of modern society.

We cannot but think, however, that he is quite misleading when he prefaces this statement with the remark that "there remained of the Roman law only the general principles emanating from natural reason and derived from the human conscience by the philosophical jurists of the preceding centuries: elementary principles of all civilized legislation which the Church accepted as civilization itself." This has been the usual assumption of the Latin ever since the revival of Roman law in its earlier pagan form in the later Middle Ages, but it amounts to no more than their having read their own history backwards. To make

5 *Essai sur l'Histoire du Droit Français au Moyen Age*, p. 298.

the point clear let us first ask ourselves what the fundamental ideas were underlying Roman law in both its legal and philosophical aspect and then contrast this with the new Christian principles as to law and government that had been slowly developing until they took definite shape in the more comprehensive theory of St. Augustine, seeing that it was his ideas that passed into the actual order of things for at least ten centuries.

II

For the Roman from early times it was the power of the will that animated the whole body of the law. Law was the fruit of individual energy. Property, for instance, was that which the hand seizes. Acquisition by force, it is true, was repressed, but it was still for the legitimate owner to assert his will, seeing that the unjust possessor was merely declared to be deprived of protection in the presence of the just possessor. As the will of him who had the right was absolute, all right was reduced to a power and all juridical relations were considered as founded on power. To be free was to be empowered to exercise one's will. Liberty, again, was absolute and independent of the control of public powers as well in the vindication as in the exercise of right. Justice remained always a private affair, while public affairs themselves were held to be a part of the domain of the will of each. Authority in the sense of a power to authorize was, as in the case of a right, part and parcel of the individual. The master was such by his own intimate conviction. It was in himself that he found the seat of his right. His real strength was not that of the fist, to be sure, but of the heart, or that *virtus* which made him a man. Force was enlisted in the service of such sentiments and the Romans were more than conscious of its legitimacy. They considered that they had a liberty all the greater, the greater the firmness and constancy of the individual which arrested the abuses of power. Liberty was a check on liberty.[6] As Florentinus defined it: "Freedom, from which is derived the term 'free' as applied to man, is the natural faculty of doing what we each please unless prevented either by force or law."[7] Law throughout remains a matter of mere will, as is clear from

6 Paul Lejay, *Histoire de la Littérature Latine*, p. 33-48.
7 *D. I.* 3.

the manner in which Celsus speaks of ascertaining "the will of the law" [8] when determining its meaning. All law, moreover, was held to proceed from the people and to drive its restraining force from them. In the words of Julianus,[9]

> Since laws themselves restrain us for no other reason than because they have been received in consequence of the people's judgment (or decree), it is proper that that of which the people approve should restrain all, for what difference can it make whether the people declared its will by means of the vote or by actions and deeds.

It followed that as the power of the people was absolute, those who possessed *imperium* were held to be endowed with powers equal to those of the people whose delegates they were. They had the same sovereignty and exercised it in an absolute manner, for this was the very meaning of the term *Imperium.* The prætor in declaring the law legislated out of the plentitude of his own will in his exercise of the legislative power of the people.[10] As with the prætor, so with the emperor, for it is in this same sense that the *lex regia* is to be understood whereby power was conferred on each successive emperor, in that the people "make over to him their whole power and authority." [11]

If we turn from the consideration of the law itself to that philosophy on which the lawyers drew in their effort to rationalize it, we shall find the fundamental point of view of that philosophy to be identically the same. The law of nations which these lawyers evolved on the basis of the similarity to be observed in the laws of the various peoples brought under Roman sway, made it possible for them to reduce to a purely moral element, i.e., that of consent, the juridical transactions formerly based upon juridical forms and words. Gaius, Ulpian, Paul, acknowledged in this law of nations a purchase, a sale, a bailment, a loan, all founded on consent, as well as a transfer of property which the will of the owner alone guarantees. It was thus that the Roman mind ended by attaining to that one principle of all human acts

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8 *Ibid.* See also J. Declareuil, *Rome the Lawgiver,* p. 158 et seq.
9 *D. I.* 3.
10 C. Accarias, *Précis du Droit Romain,* Vol. I, p. 50.
11 *Ibid.,* p. 40.

which alone they were prepared to consider: the will.[12] In this process they were guided by the teaching of Stoicism. Chrysippus had maintained that[13]

> our individual natures are all parts of universal nature; on which account the chief good is to live in a manner corresponding to nature, and that means corresponding to one's own nature and to universal nature; doing none of those things which the common law of mankind is in the habit of forbidding, and that common law is identical with that right reason which pervades everything.

If we take the following excerpts from Cicero and examine them in the light that each throws on the other, we shall see that he never really attained to anything beyond this. He says:

> Common intelligence makes things known to us and has caused them to arise in our minds, by reason of which we connect with virtue every honorable quality.[14]
>
> Real justice has no existence if it have not one by nature and if that which is established as such, on account of utility, is overturned by some other utility. . . . There is but one essential right which binds human society together, and which one law establishes. This law is right reason in commanding and prohibiting.[15]
>
> Divine reason must necessarily be possessed of a power to determine what is virtuous and what is vicious.[16]
>
> Virtue consists of perfect reason and this certainly resides in nature.[17]
>
> We ought so to manage as never to counteract the general system of nature, but having taken care of that we are to follow our own bias.[18]
>
> The essence of liberty is to do as you please.[19]

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12 LEJAY, p. 36; DECLAREUIL, *ibid.*, p. 192. On p. 29 this author furnishes a singular instance of the manner in which the Christian definition of the *jus gentium* has been confusedly read into the earlier pagan definitions. Speaking of that of Gaius he says, "*Jus gentium* was Law revealed by natural reason and therefore observed among all peoples." Whereas the Roman lawyers' point of view was that it was found to be observed among all peoples and was therefore a manifestation of natural reason in the Stoic sense.

13 BAKEWELL, *Sourcebook in Ancient Philosophy*, p. 274; BRÉHIER, *Crysippe*, pp. 65, 222-227; also *Histoire de la Philosophie*, Vol. I, Part 2, pp. 285-329.

14 *De Legibus*, I, 16.

15 *Ibid.*, I, 15.

16 *Ibid.*, II, 5.

17 *Ibid.*, I, 16.

18 *De Officiis*, I, 31. Cf. FOWLER, *The Religious Experience of the Roman People*, pp. 357-375.

19 *Ibid.*, I, 20.

All this sounds fairly familiar, of course, and scarcely shocking to a modern, but that is only because of the fact that in all Latin countries, and especially in France, thanks to their Roman law[20] and post-Renaissance literary tradition[21] such ideas have come to be most egregiously confused with Christian psychology and ethics, while in Protestant lands, owing to the influence of Calvinism, they have all but succeeded in discoloring the whole religious outlook.

On closer analysis, however, they will be found to constitute nothing more than sheer naturalistic Pantheism, which was thus originally no whit better than that pseudo-scientific Naturalism that flowed back upon us during the nineteenth century through either one or both of the two traditional channels just mentioned.[22] Right reason in the Stoic sense was but another name for that all-pervading force in nature which was termed reasonable only because it was deemed in so many various ways to issue in what was considered no otherwise than as a bare physical order. Conformity with this was held to constitute virtue, justice, and truth on the single normative basis, however, be it noted, of self-respect, self-control, and self consistency, while mere utility was looked to as the only end of law. Hence at bottom reason in the Stoic and Roman systems was but a function of will, and Seneca gives the key to the whole in a statement all too little noted when he says that a man "is good if reason is

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20 MADELIN, *Histoire de la Nation Française*, ed. by HANOTAUX, Vol. IV, p. 502, speaking of the influence of French tradition at the time of the Revolution, says: "It [the French nation] sought a better order rather than liberty, of whose modern form it had little comprehension. It did not wish for the weakening of power, but on the contrary for the destruction of those social orders which hampered the state. It sought equality under law, equality of taxation, and civil liberty. . . . All this the legal bourgeoisie offered to it." The significance of Roman law and its anti-social effects in French tradition stand out clearly all through this work. See also HANOTAUX, *La France en 1614*, p. 240. On p. 230 he says: "There were in the traditional constitution of France liberal principles which maintained themselves for centuries. Why were they smothered under the authoritarian principle which little by little became the only motive principle of the monarchical institution?" He fails to see how this was due to gradual repudiation of Christian canon-law principles and to the utter impossibility of maintaining free institutions in functional accord on Roman-law premises. That there were some in France who could still see this as late as the end of the seventeenth century is clear in the instance of Claude Joly. (Cf. Brissaud, Un Liberal au XVII^e Siècle.)

21 STROWSKI, *La Sagesse Française*, and also *Pascal et son Temps*, Vol. I.

22 SHAFER, *Christianity and Naturalism*.

developed and properly constituted (*recta*) and in conformity with the will of his nature." [23]

With the facts so stated as to the fundamental concepts of both its law and its philosophy, it may be less difficult to realize why the empire fell. Greek democracy had proved unable to create a form of government which should reconcile the individualism characteristic of the Greek people with conditions essential to the existence of a well-ordered state, namely, civic discipline, and a preference of the general interests to those of particular persons or classes, even when it appeard to be in opposition with these.[24] In Rome, however, it turned out that freedom, by which is meant not merely political freedom but that freedom of thought and independence of character which had been prized by the noblest spirits, grew steadily less and less, and the very conception of freedom itself was lowered till it came to mean the voluntary submission of all to one.[25] With the emperor absolute and singly responsible in his sovereign will at one end of the scale, and the citizen hugging his own individual will in unconcerned submission to what was deemed the inevitable at the other, we may readily imagine what St. Augustine had in mind when, summing up the past of the Roman people he said: "What its tastes were in its early and subsequent days and how it declined into sanguinary seditions and then to social and civil wars and so burst asunder and rotted off the bond of concord in which the health of a people consists, history shows." [26]

III

Having thus appraised in their proper historical setting those "general principles emanating from natural reason and derived from the human conscience by philosophical jurists of the preceding centuries" which it has been commonly and gratuitously assumed the Church accepted as civilization itself, let us revert to the time of Theodosius and Honorius, when the teaching of St. Ambrose and St. Augustine was already making a deep impression on the new departures in law and government that, as we have seen were then taking place.

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23 *Epist.* 76.

24 Rostovtzeff, *A History of the Ancient World*, Vol. I, p. 315.

25 *Ibid.*, Vol. II, p. 363.

26 *De Civitate Dei*, Book XIX, Ch. 24.

One of the first things to be noted is the complete absence of any statement of those general principles in the Theodosian Code, for it was only through this earlier code that Roman law can be said to have influenced the first centuries of the Middle Ages. As formulated by Gaius, Ulpian, and others, those principles do not reappear until they are given a position of revived honor in the later code of Justinian, which remained without effect on legal thought throughout the West up to the time when German emperors and French kings in their vaulting ambitions began to find such naturalistic principles serviceable in the pursuit of their wilfully chosen aims.[27]

Our next observation, and one of greater moment to our subject is that St. Augustine was not a Stoic in his philosophical leanings, however much that admitted of a correct interpretation he may have assimilated from the Stoic system. He was, as is well known, a Platonist, or rather the great Platonist of all time, who better than Plato even, knew how to reconcile the ideal with the actual in such a way as to render theory practicable. Now Plato had taught that law was the expression not of God's will but of God's intellect, and therefore since our intellect is a spark of his sovereign intellect, it should have the sole share in the making of human laws.[28] This was the point of view from which, with due modification, St. Augustine will be found in his writings to have approached all questions involving law or government. His first fundamental doctrine in this connection is of a character such, clearly, as to arouse our interest as Americans. For it is no other than that all men are created equal, in the distinctive sense, however, that by the law of nature man has no right over man, seeing that his power stops short at things and at animals. Being thus equal, men have of themselves logically only the right to command themselves, and no human being can of himself impose any authority on others. This to a

27 Rivière, *Le Problème de l'Eglise et de l'Etat au Temps de Philippe le Bel.*

28 Combés, *La Doctrine Politique de St. Augustin*, p. 122. It is to be noted that this author, in the manner characteristic of the French mind with its Latin bias, reads a similarity and even an identity of doctrine out of St. Augustine and Cicero, where, had he attended more to their respective premises, he would have noted that, though the terminology is very much the same, this supposed identity would be found to resolve itself into evident contradictions between the fundamental meaning which each expressed.

pagan world was new doctrine, as it still remains news apparently to many in our own time, who whether they shout up or decry our own Declaration of Independence,[29] are quite unaware that it is this meaning given to the term by St. Augustine that has entered into the construction put upon it by the United States Supreme Court ever since the beginning of our federal existence as a nation. It was in this sense, moreover, that equality was claimed to be the very cornerstone of all law throughout the Middle Ages until the Romanists succeeded in confusing the matter by identifying the term anew with the Stoic and civil law notion of an equality that would have all, in all respects, reduced to the dead level of what is assumed to be a blind material nature.[30] St. Augustine's meaning, though stated emphatically enough in several passages of his writings,[31] stands out with particular clearness when, speaking of pride, he says: "It abhors equality with other men under God; but instead of His rule it seeks to impose a rule of its own upon its equals. It abhors, that is to say, the just peace of God and loves its own unjust peace." [32]

Such a view of man's equality is clearly not in any way incompatible with social order, and as we shall see, it conditions the entire social theory as outlined by St. Augustine and as applied throughout the whole of the earlier Middle Ages. The reason for men joining in society, according to St. Augustine, is to enjoy peace, security, and union. Concord constitutes the first foundation of the city; union of wills (*compositio voluntatum*) the second; concord and union of wills, taken up in a communion of nature, the third. This communion of nature, or narrow concentration of interests of all kinds, moral and material, within the same group, nature—which is one and the same in all men—has placed under the charge of all the members. This

29 For the usual confusion of the whole question, see C. V. Smith, *The American Philosophy of Equality*.

30 A striking example of the way the Stoic and the civil-law doctrine worked out in practice is supplied in the manner in which the honor of being put to the "question," i. e., torture, was extended from the slave to all citizens and even to those of senatorial rank. (Combés, p. 193.) This is the traditional French idea, or that "only dogma of equality" which Chénier hoped to see take the place, in the religion of the Revolution, of dethroned superstitions. (Dom Besse, *Les Religions Laïques*, p. 5.)

31 *De Civitate Dei*, XIX, 15; *In Epist. Joan.*, VIII, 12.

32 *De Civitate Dei*, XIX, 12.

union of hearts and wills and interests, this *pactum societatis*, leads to the enactment of a bond (*redacta in vinculum*) which binds all the members one to the other so as to comprise all reciprocal engagements, all acknowledged rights, all duties that have been consented to, and a whole code of mutual obligations and sacrifices.

But this being so, the question arises as to how these are to be duly exacted. On the basis of the natural order, is St. Augustine's answer, and it is precisely here that he departs from that natural reason which the Stoic assumed to account for the origin and order of things in his purely physical universe. That some one should command and other obey is one of the necessary demands of the natural order, for St. Augustine observes, "Everywhere the pact of society consists in obeying rulers." But since all men are created equal, the right for a man to command men cannot come except from outside humanity. It follows, then, that as God is the Creator of all natures, He is the Author of all powers. It is not the suffrage of the people nor heredity that can confer this power to command, but God, who by delegation accords His power to each nation, causing the head to be designated, whom He thus invests with the necessary power to command.[33]

IV

How far removed this is from the Roman conception of power in the *lex regia* will be readily seen. God, in St. Augustine's theory, leaves to secondary causes, it is true, the function of determining the form authority shall take, who the subject shall be who is to wield it, as well as what shall be the manner of its transmission. Then, too, if God is the Author of all powers, He is not the Author of all wills. Bad wills do not derive from Him, because these, in so far as they are bad, do not derive from nature, which does derive from Him.[34] Therefore, authority, which has God for its origin, must have justice for its foundation.[35] The end and purpose of power is the happiness of the citizens, which happiness is composed of three chief goods, order, union, and peace. Order is had by union, and

33 Combés, p. 78 et seq.
34 *Ibid.*, p. 82.
35 *Ibid.*, p. 90.

union is realized through peace, hence order is the first step towards justice.[36] But to define and determine this order is not left to the sole discretion of human wills, for "Order is that proper disposition of things which assigns to each its place according as they resemble or differ one from the other." [37] Whence it follows that the social pact recognizes rights and fixes duties, and to this purpose establishes institutions which must be respected and sustained.

Cicero judged right or law to be fundamentally a part of our nature, and being inseparable from reason, taken in the Stoic sense, held it to be a common patrimony of humanity. According to St. Augustine, on the other hand, *Lex est ratio divina et voluntas Dei . . . ordinem naturalem conservari jubens, perturbari vetans*[38] *. . . ut omnia sint ordinatissima.*[39] God's reason conceived the order of the world, His providence conserves it, and this order all men and things are commanded to keep by a law whose simplicity is equaled only by its grandeur.[42] Virtue on this basis consists in loving what ought to be loved,[41] and human sciences and arts all derive from it, nor can they attain their perfection except they patiently decipher the secrets of this ordaining law which God has imparted to all things.[42] Nor is anything just or legitimate in temporal law that does not derive from this eternal law. From *jussus*, a mere command of the will, human law becomes an *ordinatio rationis.*[43] It ordains and establishes, inasmuch as it is the expression of an objective relation between free activities.[44]

As peace, on the contrary, is above all else a matter of the soul, a stability and harmony of institutions will be conditioned by the balance and harmony of individual consciences.[45] Hence legislation in St. Augustine's view of things should be elaborated according to an ideal curve which, starting with conscience,

36 *Ibid.*, p. 105.
37 *De Civitate Dei*, XIX, 13.
38 *Contra Faustum*, XXII, 27.
39 *De Libero Arbitrio*, I, IV, 15.
40 COMBÉS, p. 128.
41 *Ibid.*, p. 111.
42 *Ibid.*, p. 129.
43 LAGARDE, *Recherches sur l'Esprit Politique de la Réforme*, p. 14.
44 *Ibid.*, p. 19.
45 COMBÉS, p. 107.

passes by degrees from the moral to the material order, and from the individual to the collective body, and thus finds its completion in the outer contexture of society.[46] Wherefore, since power derives from God, it commands in the name of God and is just and charitable in obedience to God. It serves, spends, and sacrifices itself in order to collaborate with God, and thus seeks order, union, and peace that it may establish in some measure here below a city modeled on the City of God.[47] Hence power is given with a view to applying the laws, for "those actions which are against the customs of men are to be avoided according to the customs severally prevailing, so that a thing agreed upon by custom or law of any city or nation may not be violated at the lawless pleasure of any, whether native or foreigner."[48] But this is often forgotten, either because there is a tendency to confound power with justice and thus place force and law on the same footing; or because justice is considered inferior to power, whence instead of submitting to law it seeks to dictate to it (in which case force is rendered paramount over law); or again because justice is looked upon not only as inferior but as contrary to power, whence it follows that in order to govern more effectively justice is suppressed and force is substituted for law.[49] But this is tyranny, and St. Augustine is emphatic in maintaining, as were the whole Middle Ages after him, *Ubi justitia vera non est nec jus potest esse.*[50] Consequently:[51]

> The author of temporal laws, if he be a good and wise man, will consult that eternal law of which it is not given to any soul to judge, that in accordance with its immutable rule he may discern what in the order of time should be commanded or forbidden. . . . Just as in the case of temporal laws, although men may judge of them when they enact them, once they are enacted and confirmed it is no longer the judge's part to judge of them, but only according to them.

V

There is abundant evidence to show the predominance of these ideas of St. Augustine over all other influences exclusively

46 *Ibid.*, p. 140.
47 *Ibid.*, p. 109.
48 *Confessions*, I, 8.
49 COMBÉS, p. 90.
50 *De Civitate Dei*, Bk. XVIII.
51 *De Vera Religione*, Ch. 31.

assumed to have entered into the shaping of early medieval ideas on law and government such as the Teutonic or Roman assumptions.[52] But as space and time will not allow of our treating of this in detail we shall confine ourselves to two samples of documentary evidence, the one of the ninth century, the other of the thirteenth, both definitely illustrative of the controlling manner in which St. Augustine's theory was being brought to bear on the legal and governmental problems of those times. The first set is taken from Hincmar of Rheims, who in his two treatises, "De regis persona et regio ministerio," (A. D. 855), and "De ordine palatii," (A. D. 882), gives us the received theoretic and legal point of view of the Carlovingians. In the former of these treatises he states;[53]

> St. Augustine in the book "De vera religione" shows that the laws of princes are to be observed, saying: "In the case of those temporal laws, although men may judge of them when they enact them, once they are enacted and confirmed it is no longer a judge's part to judge of them but only according to them." Therefore just laws *promulgated by the people* are either to be observed or to

52 Gregory the Great says to Childebert (MIGNE, P. L. Vol. 77, col. 798): "You begin to please the King of kings when, holding authority in check, you look upon yourself as more limited in your rights than in your power." Gregory of Tours protesting against the tyrannous Chilperic insists: "'You have the law and the canons. These you should diligently search. If you do not observe what they prescribe, know that the judgment of God threatens you. . . . You, who challenge the justice of others, promise that you will not set aside the law and canons, and we will then believe that you follow justice.' At which he, stretching out his right hand, swore by the Almighty God that in no point would he transgress what the law and canons taught." Hist. of France, V, 19. (Note the use of the word *taught* at the close.)

ISIDORE of Seville, in his *Book of Sentences*, Bk. III, Ch. 51, says: "It is just that a ruler conform to his own laws, for he can then expect his laws to be kept by all when he himself shows them reverence." Again: "There would be no need of power within the Church were it not that it should command by the fear of discipline that which the priest is unable to effect by the teaching of doctrine." In his *Etymologies*, Bk. II, Ch. 10: "Custom is a kind of right instituted by manners, which is taken for law when the law is lacking. Nor does it matter whether it exist in writing or in reason, seeing that reason commends the law also. Moreover, if the law is founded on reason, everything will be law which is founded on reason."

At the eighth Council of Toledo, King Reccesvinthus declared: "We lay down a law both for ourselves, and, God assisting, for each and every successor to our glory, and promulgate a decree of Divine observance that no king, however urged by impulse or faction, shall extort or order to be extorted written documents concerning anything due another in such a way as to deprive any one unjustly and unwillingly of the dominion over things due him."

53 MIGNE, P. L., Vol. 125, p. 833. See DECLAREUIL, *Histoire Général du Droit Française*, p. 112.

be enforced justly and reasonably by the prince against every one without distinction.

That this doctrine had become fully accepted in the political order is clear from a letter written by Charles the Bald to Pope Adrian II. where he says:[54]

> The holy canons are founded on the Spirit of God and rendered inviolate by the religious regard of the whole world, and as the blessed Ambrose says to Valentinian, "The emperor enacts laws which you should be the first to keep, since what he prescribes for others he prescribes for himself, lest freedom be granted to another to judge differently." And the blessed Augustine says that, "After the laws have been *subscribed* to and confirmed it is not allowable for a judge to judge of them but in accordance with them."

Many years later Hincmar again sums up this theory in ampler form in the latter of the two treatises previously mentioned. And seeing that this very important statement is deserving of better and more general notice than it has received, we shall quote it at some length." [55]

> (A king) ought to guard the dignity of his name in his own person: for the name of king taken intellectually holds that he manages the office of ruler for all those who are subject. But how would he be able to correct others who did not correct his own ways lest they become unjust? " 'For the throne is established by the justice of the king' and the government of people is strengthened by truth." What the justice of the king is, is sufficiently indicated by the same blessed Cyprian in the ninth degree of abuse.
>
> The priestly order, to be sure, has laws Divinely promulgated that determine how one should attain to the height of government, namely, the episcopacy, and once he has attained to this, how he should teach, and, teaching well, with what consideration he should daily take cognizance of his weakness, and how he should rule the ministers subject to him, and also with what purity of intention he should dispense sacred ecclesiastical orders, and with what discernment he ought to bind and loose his subjects. Concerning these laws it is written in the same,

54 Migne, P. L., Vol. 124, col. 892.

55 Walters, *Corpus Juris Germanici*, Vol. III, p. 763; also Prou, *Hincmari de ordine palatii epistola.*

"No priest should disregard his canons, nor is it permitted to any to do what would offend against the rules of the Fathers. For it is no less to transgress the ordinances of holy tradition than to proceed to an act of injustice against God Himself." This is so because, as a sacred authority shows, schism and heresy are cognate things, and, to put it in other words, a schismatic is no less guilty of transgression when, out of contempt, by violating the holy rules he separates himself from the unity of holy Church, which is the Body of Christ, than the heretic who thinks wrongly of God, Who is clearly the Head of the Church itself. And as it is declared concerning ecclesiastical laws that "no priest should disregard his canons, nor is it permitted to any to do what would offend against the rules of the Fathers," so in the sacred laws is it decreed that "No one is to ignore the laws or contemn what is established." When it is said, "No one is to ignore the laws or contemn what is established," no person, whatever be his worldly rank, is excepted so as not to be bound by this judgment. Kings and ministers of the commonwealth have laws according to which they must rule, whatever the province be in which they dwell: they have the *capitula* of Christian kings and of their progenitors, which with the general *consent* of their faithful men they legally promulgated to be held. Concerning which the blessed Augustine says, "Although men are allowed to judge of them at the time when they enact them, nevertheless once they are enacted and confirmd it is not allowable for judges to judge them, but in accordance with them."

VI

If from France in the ninth century we now turn to England of the thirteenth, we have in the "Song of Lewes" most remarkable evidence of the development that had taken place in the meantime in the way of a more comprehensive grasp of what is implicit in St. Augustine's theory and of the practical bearing which it admitted. Written very probably by a Franciscan at the time of the struggle over the enforcement of the terms of Magna Charta, it gives us clearly the philosophy which that historic enactment of fundamental law presupposes.[56]

Whoever is truly king is truly free if he rules himself and his kingdom rightly: let him know that all things are

56 KINGSFORD, *The Song of Lewes*, pp. 48-53. Comparison will show that, in embryo, this is but BURKE'S *Thoughts on the Cause of the Present Discontents.*

lawful for him which are fitted for ruling the kingdom, but not for destroying it. It is one thing to rule, which is the duty of a king, another to destroy by resisting the law. Law is so called from binding (*lex a ligando*), which is so perfectly described as the *law of liberty*, as it is freely served.[57] Let every king understand that he is the servant of God; let him love that only which is pleasing to Him, and let him seek His glory in ruling, not his own pride by despising his *equals*.[58] Let the king who wishes the kingdom which is put under him to obey him, render his duty to God, otherwise let him truly know that obedience is not due him who denies the service by which it is held of God. Again, let him know that the people is not his own but God's and let him be profitable to it as a help.

If he alone choose (his advisers) he will be easily deceived who has no knowledge of who may be *useful* Therefore let the community of the realm take counsel and let that be decreed which is the opinion of the commonalty to whom their own laws are most known; nor are all the men of the province such fools as not to know better than others their own realm's *customs*, which those

57 For the pre-Thomistic theory of liberty see DE VORGES, *St. Anselme*, p. 216, and FILLIATRE, *La Philosophie de St. Anselme*, pp. 358 and 364. John of Salisbury summed it up in his Policraticus, Bk. VII, Ch. 25, where he says: "A man is free in proportion to the measure of his virtues, and the extent to which he is free determines what his virtues can accomplish; while, on the other hand, it is the vices alone which bring about slavery and subject a man to persons and things in unmeet obedience. And though slavery of the person may seem at times the more to be pitied, in reality slavery to vices is ever far the more wretched. And so what is more lovely than liberty, and what more agreeable to a man who has any reverence for virtue? We read that it has been the impelling motive of all good princes; and that none ever trod liberty underfoot save the open foes of virtue." (DICKENSON, *The Statesmen's Book of John of Salisbury*, p. 323.)

58 E. F. JACOBS, in *Oxford Studies in Social and Legal History*, p. 141, has pointed out that the movement led by Simon de Montfort was much more democratic than has been usually assumed. A striking instance of how scholars have been misled by the Stoic and Roman-law and French égalitarian doctrine is supplied by the confusion that has arisen in respect to the term *per judicium parium*. MCKECHNIE in *Magna Charta* says (p. 438): "It was not originally a class privilege of the aristocracy but a right shared by all the grades of freeholders. Whatever their rank, they could not be tried by their inferiors." This Belloc has repeated in his History of England, Vol. II, p. 238. But the real significance will be found in the terms of the agreement entered into by Charles the Bald at Kiersy, A.D. 858, where we read: "If our lord should be unwilling to preserve the law due to each and granted by him and his ancestors to us and our ancestors . . . know that thus he agreed with us and we with him . . . that no one will abandon his peers so that our king, even should he wish to act contrary to his law and to right reason and to just judgment, which God forbid, could not do this to any one." (BALUZE, *Capitularia*, Vol. II, col. 55.) The principle is the same as that of the common law that "no man can be a judge in his own cause."

who are before bequeathed to those who come after. Those, who are ruled by the laws, have more knowledge of them: those, in whose use they are, become more experienced and because it is their own affair which is at stake they will care more and will procure for themselves the means whereby *peace* is acquired.

The affairs of the commonalty are best managed if the realm is directed by the way of *truth*: and moreover, if the subjects seek to waste their own those set over them can refrain their folly and rashness.

It is commonly said, "As the king wills, the law goes"; *truth* wills otherwise for the law stands, the king falls.

Whence if anything useful has been long deferred, let it not be reprehended when it is later preferred. And let the king prefer nothing of his own to the commonweal as though the safety of all gave way to him who is but one; for he is not set over them to live for himself, but so that this people which is put under him may be secure.

VII

From such excerpts as these it should be fairly easy to gather how definite the Middle Ages were at this period in their understanding of general principles. As we see, the trend was more and more toward democratic control. What was still lacking were equally adequate institutions for the achievement of ends thus definitely fixed in theory, but complex by reason of their very realism, which demanded a sound regard for the actualities involved. In the gradual evolution of such institutional forms as had been worked out one purpose is seen to control the whole, that of providing for due process, equal protection, and the supremacy of law,[59] together with such methods of procedure as, in the light of experience, would best conduce to the ascertaining of truth,[60] i.e., objective jus-

59 MOTT, *Due Process of Law*, pp. 30-45.

60 It seems never to have been noted by the modern historian or lawyer how essential this purpose is as a pre-condition to the proper understanding and working of representative government. The idea that a representative can commit constituents presupposes an objective norm according to which he can decide so that independently of his own will merely, they may, on the basis of election and consent, be reasonably held to be bound by his prudent decision. Certainly no such institution as that of representation could have evolved out of any premises acknowledged in Roman law. Burke saw this. But with the systematic revival of undiluted Stoic ethics by Bishop Cumberland and the prevalence of Stoic physics among evolutionists plus the wide-spread adoption of Stoics logic since its re-enstatement by J. S. MILL (Cf. BROCHARD, *Etudes de Philosophie Ancienne et*

tice, in the solution of legal and governmental problems. If England succeeded better in this than did the peoples on the Continent, it is to be attributed mainly to a fortunate succession of strong bishops who vigorously stood out for the right till such time as the people managed to clinch their hold upon their representative system. This last resulted only in consequence of their own acceptance from the canon law of that method of procedure and measure of patience: the rule of majority decision;[61] and of their success in wresting from the king the agreement that there was to be no taxation without consent.

The significance of this may well be gauged by the manner in which similar systems on the Continent gradually failed by reason of the people's distrust of the principle of majority rule[62] and owing to the fact that the rulers succeeded in evading all demands that they agree not to tax without the consent of the people's representatives, although as De Commines animadverted at the time, "There is no prince who can raise money any other way, unless it be by tyranny, and contrary to the laws of the Church." [63] This situation on the Continent synchronizes with the revival of the old pagan principles of law. St. Thomas had but recently been expounding a new and more adequate theory of government and law in which, on the basis of Aristotle, he had stressed the true character of the state as a natural institution willed by God, distinct from the Church. Yet in doing so he had made his own and assimilated into his teaching on the natural law the whole of the earlier Augustinian theory. But the full significance of his teachings were not appreciated at the time, and it was the Romanists who prevailed. These had rediscovered in the Justinian Code the theory of the sovereignty of the Roman people

61 *America*, April 4, 1925, where, in an article entitled "Does the Majority Rule?" we pointed this out. Some weeks later our contention was more fully substantiated by J. G. Heinberg in an article entitled "The History of the Majority Principle," in the *American Political Science Review*, February, 1926.

62 Holdsworth, *History of English Law*, Vol. IV, p. 168.

63 *Memoirs of Philip de Commines*, (Bohn edition), Vol. I, p. 388.

de Philosophie Moderne, p. 236) the modern utilitarian Liberals, beginning with Bentham, have succeeded in throwing a smoke screen around the earlier intellectual principles of the Whigs, so much so that Holdsworth in his History of English Law (Vol. VI, p. 299), in characteristically unintelligent English fashion, puts Burke down as a Tory in company with Hume, of all men!

as the sole legitimate source of power. Supplementing St. Augustine, St. Thomas had maintained that,

> A law properly speaking regards first and foremost the common good. But to order anything to the common good belongs either to the whole people or to someone who is the vicegerent of the whole people, and therefore the making of law belongs either to the whole people or to a public personage who has care of the whole people.[64]

While clearly thus indicating that sovereignty may be retained in the people there is nothing in this of the Roman conception of the people's formal claim to the exercise of unlimited power. On the other hand, Bulgarus, a glossator, laid it down as a principle,[65] *Non enim competit singulis quod permissum est tantum universitati vel ei qui obinet vicem universitatis, i.e., populi.* (For that is not allowable to the individual which is permitted only to the collective body, or to him who *holds the place* of the collective body, i.e., of the people), which is no more than a bold revival of the conception of the *lex regia.*

While St. Thomas insisted on the universal principle that should determine in the formation of states and laid the foundations of sovereignty in the exigencies of public good, Marsiglio of Padua, following on the heels of the legists, lays stress on the fact of the adherence to the state of the majority,[66] where again he is merely reverting to the Roman doctrine of the right of the majority to rule in consequence of its possessing predominant force.[67] Scotus had already maintained that it is men, and not nature, who create social authority,[68] and Occam held law to be a mere command of the will (*jussus*),[69] not an *ordinatio rationis* or a measure of human acts, and later, following the trail thus blazed for him, Nicholas of Cusa declared: "If by nature men are equal in power (*aeque potentes*) and have the same liberty (*aeque liberi*), a man participating in power both common and equal for all cannot obtain true dominion or

64 *S. T.*, I. II. q. 90, a. 3.
65 LAGARDE, *op. cit.*, p. 48.
66 *Ibid.*, p. 53.
67 *America*, April 4, 1925, "Does the Majority Rule?"
68 LAGARDE, p. 57.
69 *Ibid.*, p. 30.

power of command except by election and the consent of all." [70] All this is but a retrogression to the Roman and Stoic idea of the predominance of will in all matters of law and government, and it was from this source that the Reformers and their followers derived both their absolutist and their individualistic doctrines[71] of the state, in which either king or people, as the case might be, were considered as so exalted as to be endowed with the singular right to do wrong or even to determine ultimately as to what constitutes right and wrong. It was on the basis of just such tenets as these that the Tories and Dissenters in England stood out in opposition, each in turn laying claim to dominate over the other. But not so with the Whigs. As Burke said, "These old fanatics of single arbitrary power dogmatized as if hereditary royalty was the only lawful government in the world, just as our new fanatics of popular arbitrary power maintain that a popular election is the sole lawful source of authority." [72] These words were directed by way of protest against the Rev. Dr. Price, who, in his Protestant zeal for the cause of the French revolutionists, was earnestly bent on misrepresenting the English Constitution.

VIII

From the many authentic pronouncements as to our own theory of law and government we quote the two following passages from legal decisions, the first by Mr. Justice Matthews[73] and the second by Mr. Justice Miller.[74]

> When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.
>
> The theory of our government, state and national, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers. There are limitations on such power which grow out of the essential nature of all free government; implied reser-

70 *Ibid.*, p. 61.
71 LAGARDE, pp. 40 and 61.
72 *Reflections on the French Revolution.*
73 *Yick Wo v. Hopkins*, 118 U. S. 356.
74 *Loan Association v. Topeka*, 20 Wallace 655.

vations of individual rights, without which the social compact could not exist and which are respected by all governments entitled to the name.

Thus to any one acquainted with the principles of our own American Constitution and law there can be little difficulty in determining which of the two traditions we have been reviewing properly lies behind our own Federal Constitution.

MOORHOUSE F. X. MILLAR, S. J.

THE CHURCH AND POLITICAL GOVERNMENT

I believe it is important to remember, in discussing any phase of the relations of the Church and Political Government, that the Church was born into the Roman Empire and not into the Roman Republic.

That is a fact which I think can be shown to have a bearing on a great many of the complexities by which European civilization was beset during the twelve hundred years or so of its development from the absorption into the Roman Empire of those new peoples upon whom, and by whom in part the old Roman civilization was carried on and the new civilization of Europe built, down to the splitting asunder of European Christendom into national States.

It is a fact which has its bearing also upon the development of the Church today not only in the old countries of Europe which arose and took form out of the disintegration of the ideal of a Christian Roman Empire, that idea of a Holy Roman Empire which obsessed men's minds, for and against it, during most of those twelve hundred years, but also in our own American civilization.

To say that the Church, as Church, has no predilection nor preference whatever for any particular form of political government means on the one hand that Christ's Divine Revelation to mankind is not officially interpreted to have any such preference; that conformity of political government with the moral law is the Church's sole object of interest in the matter. On the other hand, the Church is an administrative body as well as the custodian, promulgater and interpreter of that Divine Message. That is to say that as custodian and for the safe guarding of the integrity of the Message, administration of the adherents to Christ's rule of life is an essential part of the mission of the Church.

From the point of view of the administrative function of the Church it may be asserted that it is of interest to the Church to see created such political forms as will best make the world safe for Christianity. That is the foundation upon which the Church stands for the purpose of our study. The Church as Church has no predilection for any particular form of political government, whether as interpreter or as administrator.

It is inevitable, however, that men called to the administrative service of the Church should be influenced in some degree by the prevalent thoughts of men in the society from which they are drawn into that service. In the course of history it is an outstanding and striking fact that one can generally count on church men being inspired by high motives, in spite of the unquestionable fact that high administrative office in the Church has always been as open to political intrigue of ambitious men as any other high office in the world. The Church could not have continued to exist under the impact of ambitious individuals seeking to use its power and wealth for their own purposes if this were not a fact. Since we believe in, continuing, living, Divine guidance, we know that it will always be a fact. The slackest or most stormy passages of Church history are precisely those which are filled with the greatest and most truly Christian figures.

Without emphasizing such periods, which have occurred and do still occur, it is enough for our purposes to point out that this Divine institution administered by men necessarily works by human methods based upon such predominant human customs and general modes of thought as are not in themselves evil.

The imperial political idea is not in itself evil. On the contrary; it was admirably well suited to the spread and conservation of Christianity in the beginning. It has affected men's minds powerfully during all that long period during which western European civilization was in the making, which exactly corresponds to the life of the Church. Inevitably, the imperial idea has affected the minds of men drawn to the administration of the Church from a society in which it either prevailed or was strongly opposed.

Now the Church is of necessity and in its nature a highly conservative body; it is the conservator of tradition, yielding to the new only very slowly, and only when the new has been well tried out and proved. That characteristic is no doubt irksome to the restless mind, but it is part of the safeguard thrown around the mission of the Church. It is therefore, in the nature of the Church to relinquish only very slowly, in practice, anything which has become traditional in it; any method, good or indifferent, which has become traditional in the minds of succeeding generations of Church administrators.

Impatience with this ultra slow conservatism is perfectly idle. It is not intelligible unless it be carefully analyzed. It is not possible to analyze nor to place in correct perspective any historical phenomenon unless one can make one's self understand the manner in which men think about themselves at the period concerned. The Church has always thought of itself as lasting till the end of time. It is, then, essentially conservative, and in its own conception of its mission, can well afford to be.

The pertinence of the suggestion that the Church administrators have come to think imperially in matters of administration lies in whatever bearing that concept of itself may have on the adjustment of the Church to world conditions.

The Church, as Church, deals with fundamental guiding principles, but as a practical matter administrators of the Church corporation must also demonstrate to its members the practical application of such guiding principles to existing conditions, for the Church is no abstraction: it is a living organism.

Outside of the academic realm, or the purely spiritual field, there is hardly room for conflict today on the ground of fundamental guiding principles. We are not concerned here with those who deny the basis of the Church's existence.

When it comes to right application of such guiding principles to the every day life of Church members, as subjects or citizens of a State, there is room for difference of opinion, for actual conflict, and it is upon that practical ground that conflict has occured, does occur, and will occur again.

Quite generally people look upon the Church in the first centuries as a form of socialism, in spite of what seems to me to be the logic of the case.

There would seem to be ample evidence to the contrary; nor is it necessary to seek it deep in the sources of Church history. Certainly there is enough to go on for most people even in such easily accessible and popular publications as, for instance, the Catholic Cyclopedia.

There is evidence of a highly organized body, governed internally by general and local regulations, and with a concrete form of internal administration, at the moment the Church emerged from the catacombs of Rome, at the moment of the first edicts of toleration; hence it must have developed, and it would logically develop by the very reason of heavy persecution, be-

tween the arrival of the two apostles at Rome and the first formal Act of Toleration, if not earlier.

The edict of Milan of 313 grants freedom of taxation to ecclesiastics and immunity from certain forms of compulsory state service. There were, therefore, recognized officers of the Church; administrative organization. From the moment that the Church was granted the right to inherit property, there was recognition of the fact that the Church existed already as a corporate body.

In 318 appeal is recognized from civil courts to bishops' courts—most significant evidence of far reaching internal administrative organization, and entirely aside from historical confirmation, it would be logical to suppose that bishops' courts for the adjustment of difficulties between Christians would have been formed from the moment that bishops and groups of believers existed; there is analogy perceptible between them and consular courts in our own day. A Roman law of 333 commands State officials to enforce decisions of bishops' courts, and a bishop's testimony in a civil court of law is made final without further summoning of witnesses. Manumission of slaves within the Christian community is, by Roman law, to have the same validity as the same act performed before a public official, or by will.

The internal administrative organization of the Church at Rome seems, therefore, to have been not only concrete and definite, but officially sanctioned by the State and in fact interchangeable to some extent with the public civil administration at the very time when the Roman State in the West began to disintegrate and disappear. In spite of the disintegration of the Roman State its administrative forms continued and those forms were Imperial. Church and State were one, Emperor and High Priest were one in the pagan Roman tradition. Rome had reached its world expansion under the imperial system.

Christianity had a mandate to "go, teach all peoples." Nothing could have been more directly suited to that primary mission than the centralized form of the Roman Empire embracing all of the civilized world within its confines. Nothing could be more logical than that this fact should have been apparent to pope and bishops. Nothing more natural than that having been formed in the Roman tradition of government under the discipline of persecution they should be well aware of its power

and deeply impressed by the possibilities for their work which that form of government would offer if it were possible to Christianize Caesar, Emperor and High-Priest.

When Caesar disappeared from the scene, when political officials and political institutions ceased to function as we know they did, there existed sanctioned, interchangeable institutions of administration and justice in the Christian community to take their place immediately; there was a high priest of that same concrete body bred to the imperial tradition. It needed only a great emergency to make him Caesar as well as high-priest, since the Emperor had been high-priest as well as Caesar.

In Russia, in our own day, the disappearance of the Czar was followed by disappearance of imperial forms of government, and gradual emergence of the democratic form of government by council. Soviet means council in Russian, and the Soviet Republic is a system of government set up to meet an overwhelming administrative emergency by which delegates were sent from town councils to form country councils, delegates from county councils to State or provincial councils and from provincial councils to the national council out of which an Executive committee is elected. Since this is an obviously democratic form and appealing to many people, Lenine and Trotsky very astutely seized upon it and forced their own people into elected representation; they did not invent it; it had come into being to meet revolutionary emergency. Thus the Soviet system, not evil in itself, became identified with a party and Bolshevism succeeded in Russia to Caesarism.

In Rome there was an analogous emergency, but no complete disappearance of the ordinary political institutions of administration and justice, for the Christian body had both, sanctioned, and interchangeable in some respects with the civil institutions they replaced. Even to the new peoples from the north under whose impact the Empire was giving place to a new world, the imperial idea was synonymous with civilization. There the analogy with modern Russia ceases completely. Bolshevism was and is totally opposed to current western civilization. The new Germanic peoples were not; they were envious of the Roman civilization and wished to make it their own.

A formidable heresy menacing the foundation of Christianity and a formidable threat by barbarian peoples to the existence of the imperial city as well, coupled with the rise of Mohammed and the destruction of great parts of the Eastern Roman Empire and the Church, raised the emergency which forced the Pope to act for the welfare of Church and Roman State in the West; under compulsion of this overwhelming emergency he might logically and easily have made himself Caesar.

Rome became the last hope of Western civilization and of Christianity. The Pope became the personification of Rome.

In Rome the bishop had no superior, rival or second. As one writer puts it: "He tended more and more to become what Caesar had been of old, the embodied City, with all its mysterious charm, its predestination to supreme command, its unique and indelible character as a shrine or temple of deity." Constantinople, the Lombards and Mohammed forced the situation. A pope, looking about for armed help to save the helpless imperial city from northern invasion, selected as ally, as his military arm by which to extricate religion and civilization from its peril, a Frankish chief who had given evidence in the wars and invasions which convulsed Europe of being the most capable of all the barbarian chiefs, and who was, moreover a convert to Roman Christianity, rather than to the heresies of Christianity which made other fighting tribes useless for his purpose. Whatever arrangement may or may not have been made between pope and war-duke at that time (and historians differ) there are three significant things to be remembered: the pope did not make himself Emperor; he did evidence predilection for the imperial form of political government, and attempted to re-constitute it by the Franks, and that these Franks were the parents of modern Europe, Germany, France and in a measure England. Initiative came from and continued from that time to flow from the pope, in his contest against new northern invaders pagan or heretical, and against the brilliant Mohammedan invasion which threatened to engulf Europe and did sack St. Peters, but the pope did not do what he might have done, what others did, in other places as well as Rome; he did not establish himself as Emperor by means of an alien privileged warrior caste. With the Christianization and union with Rome of the new European peoples the emergency developed into a long contest between

Caliph and Pope in foreign affairs, and in the domestic affairs of Europe between Pope and feudalism, a military social and political structure—united in creed but far asunder in interest. To compose domestic quarrels and wars by fusing feudal anarchy into united effort against the foreign Mohammedan menace was sound policy. The Pope was the centre of it from the beginning, with constantly increasing power arising from control of taxes, or war tribute levied on all of Christendom for the Holy Wars against the Saracen and the recovery of the Holy Land, as well as from his purely religious influence. After the first wave of invasion from Africa had been thrown back and hemmed in and localized to the five hundred years' war in Spain, the overseas struggle with the Saracens was a comparatively simple affair compared to the complexities of the growing new civilization of Europe. There the Pope had created one uncontrollable power in the Empire while another had grown out of a mixture of the ancient laws of the barbarians and Roman civilization. The ideal of the Holy Roman Empire, a papal creation, had become a Frankenstein's monster to the Pope, under the influence of the second power, Feudalism.

As in pagan imperial Rome Church and State were one, so in the Holy Roman Empire, the revival of the Christianized imperial mistress of the world, Church and State were intended to be one but in a different way—a family of Christian peoples, not yet national states, bound together by a common Faith, protected from outside dangers and united against common enemies by the military arm of the Church, the Emperor, who would be consecrated and crowned by the spiritual head of Christendom, the Pope.

The Emperor was to be arbiter and peace maker between the princes of this family of nations; the Pope his conscience. The Emperor was to be the supreme war-duke. Since all outside of Europe Christendom were heretics or pagans, the Pope was to direct his war activities or moderate them against the foes of Church and State. The Pope had crowned and blessed the first bearer of the new imperial title, the standard bearer of the new Holy Roman Empire. The Pope would be within his right to refuse to bless and crown. The Pope, then would have the final word, in a family of Christian peoples, as to the selection of this supreme war-duke and domestic arbiter. An am-

bitious and none too Christian prince might coerce a pope to confirm his candidacy. The papacy itself, by the very fact of wielding such immense power would be exposed, very naturally and inevitably, to the machinations of ambitious men, less interested in the spiritual than in the temporal power, to force or worm their way to the Papal Throne, or to place thereon an adherent or a member of their family. The Papal Throne was an obvious prey to world worn old patrician families of Rome, who had watched many religions come and go in their milleniums of family history, who would see in a revival of Roman power only an opportunity to revive their own class and family power, rather than the triumph of Christianity. The papacy was an obvious prey to ambitious princes wanting to be Emperor and to the rising absolutist national monarchs utterly opposed to the imperial idea.

In the very early formation of the pre-Christian Roman State, land was the basis of full political citizenship. The early settlers of the small region which was the kernel of the Roman State divided up its land by family groups. Land owners were full citizens and wielded exclusive political power. The security of the government they set up, and the effective protection of their army drew to the new city and its surroundings large numbers of immigrants from less favoured places but these were not given political rights. The original citizens, the land owners were gradually forced up into a privileged aristocratic class, and the newcomers began their century long struggle to wrest from them more and more of their exclusive political power. It should be remembered that the Romans were notable agriculturists, and for a long time country dwellers, very like the English—highly advanced rural economists. Their class struggle lay between the land owning citizens (later, a privileged aristocracy) and the landless plebeians: laborers, tenant farmers, artisans, merchants, immigrants, without equal political rights.

With the drive of new uncivilized warlike peoples from the north and northeast, into the highly developed fertile provinces of Rome, and during the disintegration of the Roman Empire, these new warrior tribes were often admitted as settlers with all their tribal forms and customs. They were drawn into the Roman army, rose to command, married with Romans and took part in Roman life. Gradually a new military aristocracy arose

among these, admitted to citizenship in the Empire but still blood kin to the wandering barbarian tribes. As within the Roman boundaries when these wanderers finally settled, land became the basis of their social structure, tilled for their benefit by the people already there, among whom and upon whose backs the fighting tribes settled. In war the free Germanic peoples chose a war-leader for the duration of the campaign, a war-duke, as the Romans called him. About him grouped the leading men of the tribe, principal men—princes; the wise ones in war, the leader's companions or war council; from gothic Spain comes the word varón—man and varoníl, virility, in other words, a hard fighter, a hero, a Baron—and below all these stood the tribal warrior and man bound to war service, the German Knecht. In these tribal wanderings the campaign dragged into decades and the war-duke tended to become permanent, if a successful leader. When the tribe settled in some populous fertile spot, the war-leader's chief companions and advisers held under him a "companion's" share of land, a county. Subdivisions of a county would be held by the leading warriors, the Barons, and under them the bound man became, as Knight, the first rung in the new order of nobility, which grew to be an alien military aristocracy superimposed upon the resident population, all holding from the overlord but independent of each other and free to pursue their private quarrels or neighborly conquests among themselves.

Had the Holy Roman Empire been based upon a family of Christian nations, it might have succeeded. Based as it was upon the Feudal system, a lawless, individualistic military aristocracy, it was doomed to failure, and it nearly wrecked the Church. Both the war-dukes and their vassals strove to make their land holdings power and rank hereditary and perpetual. War-leaders, emerging into kings sought to break the power of their counts and barons, who having become territorial rulers rather than anybody's followers, were his rivals for a royal crown. Their tribal customs, grafted upon the new social order were not Christian. Christianity may be made to fit in some measure, and to soften the asperities of a society based upon war and force, but it can never be truly assimilated to such a society. It may be a brake upon such a society; it can never be fully its inspirational soul. Only when and where the spirit of

Christianity pierced through the feudal structure, were the Middle Ages great. Feudalism was an equal stumbling block to the Church and to the Imperial political State.

Men can hardly live isolated from and unaffected by the society which produces them. Churchmen drawn to the administration of the Church from feudal society would normally follow its general mode of thought and customs. Lay investiture arose from such a custom. A gentleman was a landed proprietor. A Bishop was a gentleman, a baron or a prince in the Church. To the imperial colouring of Church structure came the feudal tinge. As a landed proprietor, a bishop held of his feudal over-lord the King or Emperor either actually or by still existent legal fiction and owed him feudal service. It was vitally necessary for an overlord to be assured of the loyalty of his vessals. He must, therefore, choose or confirm a land-holding bishop, or, per contra, refuse him. The consecration of bishops and their charge of a particular diocese is however a prerogative of the Pope. Conflict on this point became inevitable. A bishop, prince of the Church, even though consecrated and invested by the Pope in due form, was, if a land-holder, a feudal vassal of the temporal power, and as such owed him military and other service according to strict rule. Hence that anomaly in Christendom: military bishops on high war horses. Again, military service as well as government of feudal land holdings necessitated money and taxation to produce it. The common man might quite conceivably rebel against his baron's tax collections and find himself in rebellion against his bishop, baron and bishop being the same person. The struggle between the Papacy and the line of German Emperors would tend to confirm the administrators of the Church, generation after generation in their own as against the State's imperial methods; the struggle of Church administrators to Christianize, civilize and subdue to orderly life the anarchy of feudal society would tend to confirm them in the superior merit of the imperial form, but the inextricable confusion poured into the minds of illiterate men of high station or of low by the encroachments upon spiritual matters of both systems would make inescapable the cataclysm of the great Rebellion called the Reformation. The great pity of that Rebellion is that so many good and well-meaning people left the Father's house because of the disorders in it. Not all

were rebels certainly. The majority were victims. The very fact, however, that the new nation States and the new absolutist tendency were children of the great split in Christendom, would strengthen the imperial concept of Church government, for now Christendom was no longer a family of peoples, but a group of highly competitive nations, suspicious and hostile toward each other; even those that had remained Catholic were wary of any attempt to bring them back again into a common organization. Into that situation only an imperial policy centred in the Church would fit: the counter-reformation, together with its process of sweeping out abuses must deal with each of these new entities in turn. While smoothing away suspicions of its political motives, the papacy must tie in more firmly than ever each diocesan administrative group to the centre at Rome. Unity, in the sweeping hurricane loomed almost larger for the moment than universality. The expansion of the mission of the Church seemed to be effectually halted by the shock.

In a very cursory review of fifteen hundred years of this development of the new civilization in Europe, it is necessary at each stage to go back and emphasize the thread upon which these crowded years are strung.

There are two currents of contemporary thought as to the position of the Church throughout this period: first that the Church, that is, the line of Popes, deliberately and consistently grasped at universal domination in political government and would again attempt to dominate political government if Protestantism and the National State were not constantly on the watch, and second: that throughout this period of development of a new western civilization popular political liberty was deliberately crushed by the Church (that is, by a politically ambitious papacy) and individual political thought restrained.

It is not our concern to speculate on the manner in which Divine intention may influence human free will in its choice of political methods beneficial to the spread of knowledge of Christ. Historically, we may see a new religion, with a definite and competent administrative organization set up for the protection of its members under persecution and serviceable to the spread of its religious beliefs, standing alone as political government in the western European Empire fades and disappears under the initial shock of barbarian newcomers. We may see the adminis-

trative machinery of that organization for its own members succeeding to the machinery of political government for the double reason that it still functioned and to some extent had been publicly recognized and sanctioned by the old political government; and was therefore, legal and competent in the eyes of the people. My particular point here is that there was not usurpation of power nor even a use of original power, as there was for instance in the setting up of the American Republic, but continuity of political power in some sufficient degree through the sanctioning of Church authority in civil matters by Roman political government before all Roman political government faded out of the west as an actuality, leaving only a tradition in men's minds. My point is against any necessity to assume usurpation of power by politically ambitious popes.

Nevertheless, had this continuing sanction of a defunct political power not existed at all; had the Pope been confronted by the conditions which menaced the existence of civilization and Christianity without any shadow of continuing sanction from the western Roman government, he must have acted as he did simply on the ground that he was the only person in Europe who could act, the head of the only organization that retained coherence, unity and strength, and that the conservation of Christianity and western civilization were sufficient motive for him to act.

Christianity and European civilization were menaced inside and out: a great heresy denying the fundamental principle of Christianity, that is, the Divinity of Christ, was spreading from the East. The State was shaken to its foundations by the invasion of new barbarian warrior peoples, either completely pagan or influenced by Arian heresy, in both cases enemies of Rome. From Africa the age old Mediterranean struggle had resumed formidable proportions welded together as it never had been before by the conquering exaltation of another new religion, Mohammedanism, and Europe was on the point of becoming assimilated by conquest, in the new Saracen Empire.

The Pope most certainly assumed a political role. He acted politically and thoroughly. It is of infinitesimal importance whether he had or did not have a legal right to act. He called to alliance the most successful fighting tribe of the new northern invaders of Europe, which happened to incline to his own re-

ligion. The choice, historically was so obvious that it need not even be lauded as great statesmanship. It was an inescapable choice, if choice must be made. There was literally nothing else to do, if the Pope felt any responsibility whatever for religion and civilization. It is truly an over-sensitive and illogical historian who would criticize his act adversely. Out of Papal alliance with the Franks rose a new political concept; the new Empire. It seems trivial to insist upon the illiteracy of the majority of people in Europe at that time, yet we must insist. The Pope was the centre of religion in the west. The Pope was deliberately choosing among war-dukes one who could bring internal peace and set up external defence. He must show his approval to an illiterate world by an outward sign. Bulls and written proclamations were only for those who could read and understand. The Pope blessed, anointed and crowned the new ally as Christian Roman Emperor, a solemn ritual that men could see and understand and tell to others, to the furthest confines of Europe. With that act of coronation, however, went a corollary in men's minds—if the Pope could approve of a political leader, he could disapprove. If he could crown an Emperor, he could uncrown; if he could make a political government, so also could he unmake. That act could, would logically, and did fasten upon minds of men in the Church communion a sequence which was attractive to some, which would appear necessary for the conservation of religion to others, and which would and did lead to learned argument in its support. That, however, is to be distinguished from Church teaching. In Papal acts, moreover, there is a technical distinction to be made between what is binding as the lawful and binding though conceivably mistaken act of lawful authority, and that which is binding because of infallibility. The two things are present though separated in Church administration.

A consequence of the operations of this new imperial political concept in Europe would be, and was, conflict of authority as stable political government emerged from chaos, and nationalism together with the Absolutist Theory of monarchy superseded a loose feudalism, entered into competition with the imperial concept, and again split the European community into fragments out of which rose the national states which give Europe its present political form. Usurpation by the Church of

political governmental functions can not be logically asserted during all that period of anarchy when Europe's real external and internal interests were one, but the only unifying force was a common religion. The mere fact that a man is the head of a religious body and that through the influence he thus exercises he has an unequaled power does not make it improper, even speaking from the purely human point of view, that he should use that influence and power, to meet an emergency threatening civilization. It does not make it improper for such a man, again speaking of him only as a man without reference to any divine mission he may believe to be laid upon him, to attempt to bring order out of political chaos and anarchy by direct political acts. The most that can be contended with any semblance of reason is that in a new political world in which all men are not united by a common religion it should not be necessary for him to do it; that in the new order there can be no emergency requiring the intervention of the head of this great religious body backed by the power of his influence within his own communion. That may still be open ground for debate with those who so assist but certainly it applies only to the present and not to that period in which some one had to take the lead in preserving and developing Christian civilization, and the Papacy was the logical organ for that operation.

With regard to the crushing of aspirations toward self-government it is completely false to lay the burden on the Church. Whether or not those people were racially akin who lived in tribal formation out of which grew the Greek city states, the Roman monarchy, republic and empire, and finally the new national states of western Europe, one thing is certain, that they all possessed some semblance of popular self-government, even though "the people" was restricted to a minority of free men. Even in the Roman struggle between patricians and plebeians land ownership may be taken as the basis of citizenship, citizenship developing into a closed aristocratic caste called patrician from the fact that fathers of families only, represented the body of land owning citizens. The method of land tenure by family rather than by individual possession does not matter; only those in whom land ownership vested whether directly or indirectly, were citizens, and citizens were self-governing. So also in the tribal formations which imposed themselves and their rule by

conquest upon the Roman provinces of western Europe, though a difference between this political development and that of Rome lies in the fact that while in Rome the citizen was the landowning native, and the plebeian was the landless alien without political rights, under the feudal system the native land owner or land tiller sunk to the level of a plebeian without political rights under the superimposition of a landless alien group of military tribesmen, by conquest. These tribesmen having also been self-governing originally lost their original political customs in the process of developing into an hereditary military aristocracy based upon a new system of land tenure, with the native at the bottom of the feudal ladder. Feudalism, not the Church, killed or suppressed whatever measure of popular self-government existed in the tribes of western Europe, just as imperialism suppressed or killed it in Rome. Feudalism restricted learning. Just as a feudal aristocracy placed limitation upon hereditary absolute power of the Empire and the growing monarchies, so did artisans, guilds, city dwellers unconnected with land ownership and the growing political concept of nationalism place limitations upon both monarchy and feudal absolutism. As the Papacy set up the imperial form of political government in western Europe, so did Church administrators set up, encourage and use all these other political organisms to offset absolutism and preserve a balance of power. It is too much to say that all Popes and Church writers at all times have been completely prescient of the future consequences of their political acts or theories and that all have at all times worked consciously to preserve a political balance of power until evolution should bring forth the perfect system in which the Church should have the role of conscience in the political mind and body and there should be no need for direct political action. At the same time, that has been a persisting ideal, and in some minds this ideal has taken the outward form of an imperial Theocracy.

The Holy Roman imperial idea did not work, largely, as I believe because of the anarchy of feudalism into which tribal self-government had degenerated.

Christian feudalism did not work because of its transformation from the tribal self-governing form into an hereditary, privileged, inchoate, military aristocracy.

Absolute monarchy did not work because in breaking away from the imperial concept of unity which had never worked, it also broke away from the Papal spiritual influence in breaking with the temporal.

Through the development of a new non-feudal middle class, its participation in government and the gradual supplanting of privileged aristocracy by a capitalistic "Commons," not as a Democracy but as a privileged successor to privileged aristocracy, came new political concepts, the new sovereign nation idea.

The aim of the Church is, and must be from its nature, universality with unity and with these changes the Church entered a new phase of activity, for the Church meets human problems by human instrumentality. The Church all its life has been dealing with rulers, and dealing imperially since the Church was born in the Roman Empire, was formed to the Empire and was the sole bearer of its tradition, culture, learning, law and outward form when the Empire crumbled and vanished. The Church had grown into the Roman shell, and when that shell flaked off, the Church preserved its moulded form.

During the split of political Europe into national states, sealed in 1648 when absolute monarchs carried their harassed subjects by force into a split of religious allegiance, practice and eventual belief, the Papacy still continued to deal with rulers, by special agreement with each one, according to specific conditions, for the liberty of conscience of those under Protestant rule, for the prevention of Protestant invasion among those under Catholic rule.

That also did not work, for to the materialistic eye, unconscious of, or rejecting the Divine mission of the Church there is something inconsistent and even sinister in demand for liberty of religious belief where Catholics are in the minority, and demand for suppression of liberty of religious belief of nonconformists when Catholics are in the majority.

A new trend, however, began to take definite form between 1567 and 1621.

Concurrent with the rise to participation in government of the bourgeoisie came renewed stirrings from the very bottom of the legalized social stratification inherent in the feudal structure. Sporadic and spasmodic motions of the proletariat against

intrenched privilege are evident throughout the middle ages but in that period began to take definite and in some cases organized form. Political students remembered, as we are beginning to do in America today, that there had been a world before them, that everything was not new; that a thousand years of struggle had beclouded European history and obscured the fact that many political ideals and practices had been tried and had worked well in some measure; that it was possible to draw upon the sum of historical human experience for the reasons why each in turn had failed, and possible also to set up a political theory which might work for the greatest good of all. Since it is the role of the Church to encourage that political state in which man may best attend to his spiritual requirements and since this sum of historical human experience really centers in the experience of the Church itself either directly or as bearer of the Roman tradition which unified and passed down all preceding experience, new young men in the Church began to think new young thoughts, or to revive and reclothe old thoughts in youthful guise.

Robert Bellarmine was born in 1542, in Italy. In 1569 he began his public career, at the age of 27 years. Seven years later he was given the chair of Controversy at Rome—still a youth with the vigor of youth. There were no important Protestant theologians of the 17th century who did not try a bout with Bellarmine. Dunning, (History of Political Theories, from Luther to Montesquieu) says of him: "His disputations covered systematically all the prominent issues of the time, theological, ecclesiastical, political, and constituted a formidable arsenal of arguments." It may be admitted of Bellarmine that he was primarily concerned with defense of the Church from the point of view of theology and ecclesiastical structure, from the very point of view of the political activities of the Church. Since the split of Christendom however was first political and only secondarily religious, and since for the best accomplishment of the mission of the Church a sound political structure is necessary, the most useful political form of government would necessarily occupy his attention, most useful that is, to peace, harmony, permanence and progress and the development of religion unhampered by politics. The imperial political concept of Europe had not proved to be the most useful, nor the feudal structure

nor the absolutist monarchical state. Bellarmine went back into the ages and reasoned out a theory from the accumulated evidence of trial and error. "In a commonwealth, was Bellarmine's conclusion (de clerics, ch. VII) all men are born naturally free; consequently, the people themselves, immediately and directly, hold the political power, so long as they have not transferred it to some ruler."

Curiously enough this very positive statement did not strike Protestant theologians as being new though it was subversive of the theory of Absolutism. On the contrary Robert Filmer, theologian to James I. Stuart says: "this tenet was first hatched in the schools and hath been fostered by all succeeding papists." Against Henry IV Bellarmine stated his views on the origin of civil power, denying that this or that particular king or ruler rules by Divine Right. He endeavored to sift out ancient custom and combine in popularized form with Christian philosophy the doctrine of trusteeship in government and responsibility, that is, the theory that God gives to the people as a whole the right to be governed justly and properly since government is essential to human society; consequently that God gives power to the people as a whole to express their choice of a ruler and the right to use it. This theory or doctrine of political government struck straight through the theory of hereditary and divine right to rule inherent in kings; the theory which had superseded tribal self-government and feudal anarchy, of the king as the fountain head of law, and consequent superiority to law. Where accepted, it struck the ground from under the "legitimatist" theory, that is, that monarchy being divinely ordained, hereditary right of succession is indefeasible; that right of succession is acquired by birth and all other acquisition of sovereignty is usurpation. Bellarmine's formulation made hereditary right appear as usurpation and strengthened enormously whatever desultory trend there was toward constitutional monarchy, self-government and eventually, democracy. The nation, according to his doctrine is an organic group, a political unit, composed of individuals. Each individual is by nature born free and politically equal. Being free and politically equal there is no reason why one man should have a greater *right* to rule than another. Still, society is of such a nature that it needs a ruler for the common welfare and for self-preservation. The right to some form

of *good* government, the necessity of a sovereign power, flows from the nature of society. It is of divine origin, but the form of government, or who in particular among people with equal rights shall be vested with governing power is not divinely imposed. Nor does divine authority in political matters flow directly from the Papacy, asserted Bellarmine, in opposition to those Absolutist ecclesiastical writers who asserted that the Supreme Pontiff has, by divine right the fullest power over the whole terrestrial orb both in ecclesiastical and in political matters. "The Pope is not the Lord of the whole world," said Bellarmine and even went so far as to maintain that the Pope is not even the spiritual Lord of the whole world, and will not be till all men have been converted to the one true faith. Briefly, he says that temporal princes are not mere vicars or vassals of the Pope: that they do not derive their power from the Pope, quoting from a long line of pontiffs in support of his position; that the Pope is not the Lord of the whole world nor the spiritual Lord of the whole world, nor the temporal Lord of the whole Christian world.

Democracy as we understand it today was not in Bellarmine's nor in most people's minds in the 17th century though participation of all social classes in the business of government was beginning to take definite form, particularly after the experimental essays of the English colonists in America built upon the representative gains made in mediaeval England. It is quite conceivable that the Church might have given great impetus to this new formulation of political concepts during the next two hundred and fifty years had it not been for the fact that the imperial tradition still clung about Church men; that most administrators, ecclesiastical or political are inevitably more concerned with carrying out the routine of administration than in going back to sources of authority or setting up new formulae; that Bellarmine's doctrines were necessarily considered as nothing less than treasonable by absolutist rulers, and that men drawn from general society to the ordinary administration of the Church are naturally coloured in their majority by prevalent ideas in the society from which they are drawn wherein those ideas are not contrary to Faith and Morals. The two centuries and a half succeeding the reconstruction of Europe on a national basis saw also the rise of secret societies,

secret because opposed to the existing order and therefore suppressed whenever possible. Most of these secret societies were quite naturally hostile to both Church and State since in the disruption of Europe many men had not been carried away by some theological doctrine, but had simply lost both religious and political faith. The fetish of such societies was liberalism and republicanism. Liberalism became tainted with an anti-religious connotation, and thereby republicanism became suspect and remains so to this day in much of European catholic thought.

Due to the anti-religious connotation of European liberalism as well as to the fact that though powerful in his day Bellarmine's reasoning has since lain embalmed in a language no longer practiced fluently since Latin has been treated as a dead language, and due probably also to the fact that in Europe republics have been looked upon more as a revolutionary punishment of royal sins than as a good and desirable form of government in themselves, there are many in Europe and many in the ordinary administration of the Church who are sincerely and honestly doubtful that the Church can lead its normal life in a republic. It is not generally recognized that a republic which has never been anything else but a republic, which has never passed through monarchy and imperialism, which is set up exactly upon the political lines which appealed to Bellarmine's clear reasoning as the most useful to all concerned, may be a medium for the true expression of the Church's mission to the world such as was not developed in Western civilization until the United States of America took form.

Bellarmine, in his treatise "De Laicis" chapt. XIII, 2, makes the following observations:

"First, it is to be observed that political power, considered in general and without particular reference to monarchy, aristocracy or democracy, proceeds from God alone; for it necessarily follows from human nature, and therefore emanates from Him who made human nature. Furthermore, this power exists by natural law and does not depend upon the consent of men, for whether they will or not, men must be governed by someone, unless they are willing to perish, which is not human. Thus, the law of nature is divine law and government exists in the world by divine law."

"Further," he explains, "political power resides immediately in the whole multitude as an organic unit." The natural, or divine law, which creates political power in general, creates and vests it immediately and directly, not in any individual, but in the community, thought of as a political unit. "The community, being unable to exercise this power itself, is obliged to communicate it to one or several. The power of princes considered in general is indeed by natural and divine law, but that this or that person shall rule is determined by the choice of society."

In his De Ecclesiastica Monarchia Chapt. I he says: "we consider as more useful for men a Monarchy tempered with Aristocracy and Democracy than simple (that is to say, absolute) monarchy." He points out the danger of absolute, unchecked and arbitrary one-man rule, while admitting the advantages of strong central power. Analyzing Aristocracy he credits it for being a good form of government wherein it *really* distributes the various duties of government among the best men. Democracy too, he declares to be a good form of government, but recognizes that carried to the extreme it becomes anarchy or resumes the form of tyranny. Each of these simple forms of government had been tested in the world before Bellarmine's time and all had failed. Still, in each there was something good and useful, if properly and securely balanced and checked. He proposed therefore, to combine the best features of each.

From the monarchical form he would adopt enough to insure order, peace, endurance and efficiency. From aristocracy he would draw a distribution of power, of legislative, judicial and executive power, not as vicars or agents of the central head but as real heads within their own jurisdiction, only in certain general regulations of national import should they be subject to higher authority, for the sake of unity, order, strength and cooperation. Minor details of their administration should be worked out by these local "best minds" according to local conditions and needs, in order to develop initiative, originality and self-expression.

Finally he draws this conclusion: "If the supreme head and the minor heads acquire office not by hereditary succession but by consent of the people, democracy too has its part." The con-

sent of the people he maintains, is necessary in the first instance for a legitimate bestowal of political authority upon any particular ruler. He recognizes, consequently, referendum to the people. Laws proposed by magistrates receive their binding force from the people. The community has the right to change the system and form of government, etc.

The form he outlines, while perfectly compatible with constitutional monarchical government is even more strikingly coincident with our own constitutional republican government as is apparent from his summary: "This more useful form of government would embrace one supreme head (the Chief Executive) and possesses, therefore, all the good qualities attributed to monarchy. Secondly: It would provide such minor heads as governors of provinces, legislators and judges, who, on the one hand would be in harmony with the supreme head and assist in distributing the burdens of government, and on the other hand be independent enough to govern over their own province, not as the property of another (bureaucracy) but as their own (Senators, State governors), thus making the best qualities of an aristocracy possible; thirdly: elements of democracy should insure the commonwealth within reason against incompetent rulers and secure the highest degree of popular right, liberty, approval, self-expression and welfare. Bellarmine is quite sufficiently explicit with regard to republican democracy though the practical experience of his time was derived mainly from other governmental forms. As a general rule he assumes that election of a ruler, political or ecclesiastical is in most cases better than hereditary succession, but does not consider other titles to political authority as invalid, so long as they rest on the consent of the people. His reasoning would seem to express the real thought of the Church in the matter as well as anybody has expressed it.

Our colonial period in America had nothing in it to indicate to statesmen or to Churchmen in Europe any solution of political problems. Each group came here to live its own life, not to let live, with the one exception of Maryland and to a greater extent than other colonies, Pennsylvania. There was merciful sufferance of religious minorities in Pennsylvania; non-interference with another's conscience was a foundation stone of the Maryland colony. That, however, in view of the times could not

have made particularly sympathetic appeal to many Churchmen in Europe, nor does it to some Churchmen in the United States today. The Maryland group, determined to respect private conscience may well have seemed traitors to many on both sides of the religious controversy that still raged. Even those clergymen who came out with the Catholic colonists for their spiritual needs were not fully in accord with the non-contentious principles laid down as fundamental to its existence by the Lord Proprietary. The two facts: first, that the colony was aristocratic in character and the Proprietary had all the rights of the Palatinate of Durham, a state independent of the Crown, and had the power, though he never used it, to create knights, barons and the various degrees of feudal nobility; and second: that he required absolute obedience to his rule that all religious groups settling within his territory should respect the religious convictions of all other settlers raised opposition within and without. When a group of Puritans expelled from New England and refused admission in Virginia, first agreed to this rule and then seizing the government destroyed the capital and put in force all the disability laws of England against Catholics there seemed to be no deep regret anywhere that the experiment had failed, and the Catholics who had formed part of the colony were left to their fate. In England gallant priests returned from the continent to carry on the care of souls in spite of the most atrocious tortures. In Ireland these same great hearted priests held their people together in spite of all England's power could do to exterminate the Faith. Not so in Maryland. That experiment did not seem worth saving which has influenced the future Republic so strongly and which made possible the phenomenal expansion of the Church after the Revolution, and is the real strength of the position of the Church in the United States today.

It is no reproach to the Churchmen of that time to say that they did not and could not foresee what was coming, even though that something proved to be better suited to the needs of the Church than any political structure that had been set up within its life time. Such things are never a reproach to the Church or to Churchmen who administer its affairs, for such Churchmen differ from other administrators only in that they have a Divine trust superior to any other divine trust. It is one thing to assert that all truth is in the Church and they are its custodians. It

does not follow however that all men in the Church are fully cognizant of all truth from the mere fact of their being members of the Church, or even of their being administrators in the Church. Truth is defined, and defined infallibly only when it is attacked or in danger of being lost; it is defined, one might say under compulsion, after careful research, discussion, weighing and even disagreement and dispute.

Absence of omniscience, or even of great prescience is not a reproach, and yet it does seem strange that members of the religious Society of which Bellarmine was so shining a light did not grasp at once the importance to religion of the new political structure growing up in a new land nor recognize its conformity to the general political principles laid down by their illustrious colleague, whose dissertations were sufficiently well known all over Europe by that time. True, both the Church and that particular religious body were overwhelmed with troubles at that time. Nevertheless it might be maintained also that bred to that imperial political form into which the Roman Church had grown to fit comfortably by the time it was tolerated and recognized by the Roman State, the time was not ripe for immediate recognition of the advantages offered by such a political form as was to grow from the seed of Maryland even more than that of Massachusetts and Virginia.

After the Revolution and with the coming to America of the French Sulpicians, the Dominicans, and eventually the restored Jesuits, that seed did grow and prosper.

In 1792, Spain was filled with exiled French priests and even Protestant England was filled with refugee clergymen from the French Revolution. Few of these found their way here, however. Before our diocesan organization and the erection of the Baltimore See religious affairs in North America were in sad eclipse. The growing cities offered less a field for zealous priests than a haven for those to whom even the shattered discipline of Europe was irksome. Even at the time of the erection of the Baltimore diocese there was a slow tide of Catholic immigration setting in—not always the best type of Catholic and in serious degree not the best type of priest. Archbishop Carroll who was so strongly recommended to Rome by Benjamin Franklin, was quick to seize upon the advantage offered by the calamity of the French Revolution and to draw to his aid the Sulpi-

cians, trained to the spiritual and intellectual education of priests, from whose ranks came so many of our first bishops, in spite of their rule to avoid ecclesiastical honours. Every new French bishop was met in cities, everywhere, by open rebellion against his authority. Irish and Spanish Catholics often headed by their priests, refused to receive French Bishops. Irish parishes refused to receive French priests. There were several reasons underlying this apparently general refusal of the authority of the Church; the presence of lawless priests unable to live at home in Europe and very unwilling to resubmit themselves to a bishop; the preference by some of the new immigrants of a lawless or even dissipated priest of their own race and language to the holiest or most cultured French gentleman the Sulpicians ever produced; and finally, the question of management of Church property. There were some attempts made to go back to the pre-Reformation parish system of England; there were parish boards of trustees not only holding title to Church property but sometimes claiming the right to name the parish priest. At the same time the older stratum of Americans, those who were already, through colonial life and the Revolution fused into the beginnings of a nation, were clamorous for any good priest. The German catholics of Pennsylvania received them with open arms. Later historical writers are too apt to gloss over the troubles of this period and thus to give the impression that rebellion emanated from the older American catholics and that the Church only started with new immigration. That is not historically true. Newcomers were the rebels, not the colonials. Those who had survived the complete deprivation of a hundred and more years of disabilities in Maryland were perhaps "cold" in the beginning of the new era, as some of their new French pastors report in their diaries. Nevertheless, they melted and warmed very quickly. The old Maryland spirit revived and once the catholic schools in Baltimore were known, there came to them as many Protestants as Catholics. Sometimes there was even a slight majority of Protestants for the sake of the sound education they afforded and the culture and refinement of the Sulpicians, one of whom was named as the most perfect gentleman he had ever met by that fire eating son of the people, Andrew Jackson, who with all his rough and ready ways was a man of great insight, and knew a man and a gentle-

man when he saw him. One of the first rules of the French Sulpicians was the injunction laid upon new arrivals from France to remember that they were foreigners here and must respect all local ways and manners and customs which were not in conflict with Faith and Morals. Concurrent with this rule of conduct ran another: to respect and encourage American patriotism. The new bishop of New Orleans appointed just before the battle of New Orleans urged his people to support General Jackson and was thanked after the battle by the victor. There may have been an influence there of French anti-British nationalism, too, but it does not show elsewhere in the record of that bishop, nor to an undue extent of any of the Sulpicians. Out of this Maryland situation of real tolerance and amity between Catholics and Protestants rose a false impression of "liberal" Catholicism in the minds of later comers accustomed to the tradition of a life and death struggle between Catholic natives and alien Protestant conquerors bent on exterminating both their religion and their national life. Marylanders are not and never have been "liberal" Catholics in the European sense. They are and always have been "papists" in the European sense: men devoted to the Holy See and to their bishops but tenacious of the idea that within the Church there is orderly place for every class of society and every national or occupational group into which mankind is divided.

Sooner or later, as new States grew up overseas essentially different from the pagan missions with which the central Church had always dealt from the beginning, there was bound to arise also a double new realization in Church administration: first that Christians who had never been Catholics nor ever known Catholic tradition were not seceders nor rebels and consequently must be treated differently from those who were; and second: that gradually overseas bishops, for the furtherance of the work of the Church must grow back to the measure of autonomy exercised by the first apostolic bishops in their communion with St. Peter.

With the organization of diocesan administration arising in and spreading out from Baltimore under the impulse of that great American family, the Carrolls (I say *American* advisedly, for, intensely proud of their Irish ancestry and tradition, the Carrolls were Americans to the core, and serve admirably well

as an illustration of what I mean by the Americanism of colonial stock), and with immigration flowing into our cities with increasing rapidity, there arose a most interesting situation. While ancient religious prejudice inherited from the wars of Europe still persisted, our national government evidenced a friendly interest in the organization of the Church, going so far in 1848 as to appoint a series of able diplomatic representatives to the Holy See, during which time, and until the suppression of the Papal States, instructions of Secretaries of State to American Ministers showed a remarkable understanding of Catholic affairs, and direct messages to Pope Pius IX from Presidents hailed him as "the instrument of Divine Providence to accomplish liberal reforms in Europe," and mesages from the Pope and the Cardinal Secretary of State showed clearly their interest in the setting up at last of a political government in which it was not and never ought to be necessary for popes to intervene by political acts for the preservation of the Faith.

Direct and tangible evidence of this realization came in 1821, through Archbishop Marechal, of Baltimore, following the suggestions to Propaganda of the first Archbishop, John Carroll. "We admit, said the Archbishop in a memorial to the Holy See, that we have no right to present candidates for the episcopacy, but, unquestionably, someone must nominate them. . . . Strangers can not claim to be acquainted with the needs of the country."

In 1821, four out of eight bishops had been appointed from Europe without ever having seen America. Irish bishops had been appointed who had taken the oath of allegiance to the King of England and these as well as others who had refused that oath proved unacceptable to the government of the United States because they were subjects of a power with which the United States had recently, and twice been at war.

The principles suggested by Carroll and Marechal have ever since regulated the selection of bishops in the United States.

That was the beginning of conformity to this new idea of political government, set up in accord with the principles of Bellarmine as most useful, as providing a community within which the Church can pursue its mission unhampered by the political exigencies which so hampered it during the development of western civilization.

These principles, in essence, are in full accord with the fundamental policy of the present Holy Father, to meet the two political phenomena of the day, intense nationalism and internationalism, by native hierarchy and native clergy.

The sole danger to these principles that one can see at present would lie in the possibility of monopoly of presentation of candidates for the episcopacy to the Holy See by any one group of the many different origins of which the people of the United States are composed. It is not only idle but dangerous to pass over as non-existant (as we do) the jealousies of racial groups within the United States. That is a problem common and identical both to the Church and to the people and government of the United States. It is a fact denied by politicians but kept alive by them for their own uses. It has caused rebellion and schism within the Church and is alive and active in the Church today and at this moment, no matter how strongly we may wish to suffocate it under a blanket of silence. This truly democratic concession by the Holy See should never be permitted consciously or unconsciously to increase this tension by fastening on the Church in America a monopoly of any one racial group. We do not want an American Church in the sense of an Anglican Church or of a Gallican Church, but if we do not want a narrowly nationalistic American Church, neither should we want a Church here dominated and monopolized by any one of the groups of which the people of the United States are still composed, and that situation if it existed could be made positively dangerous to and subversive of the interests of the Universal Church if the members of such a group in monopoly, happened to be actuated by national or racial interests or patriotisms derived from beyond the boundaries of the United States, and not shared by other Catholics within our boundaries.

A further danger to the interests of the Church, in my opinion would lie in any tendency by Church administrators in this country to revert to the old imperial tradition, instead of following the quite orthodox principles laid down by Bellarmine, by the early hierarchy of the United States, blessed by Pius IX and to which those cling jealously who realize the possibilities of the American Republic. One of the chief causes of misunderstanding between Americans and Englishmen is that while they do not think the same thoughts they do speak the same

language, and therefore do not take the trouble to find out in advance whether they are thinking about the same thing. The same is true between any two different peoples speaking the same language. It is found to be true by Irish-Americans when they return to Ireland, as everyone will admit who has done it. One of the reasons, however, why the early French bishops got on so well with those who out of different racial groups had already been fused into a common interest by the fire of revolution and reconstruction, lay in the fact that not speaking the same language as their people, they were forced to stop and understand them. That was changed in the succeeding era of Church history in this country by enormous immigration from Europe, concentrating over a long period in isolated groups and only now beginning to break through that isolation from the general body of the population to take full part in the life of the nation. The particular characteristics of each such group are welcome and more than welcome to the nation. Any tendency, however, to impose particular racial characteristics or group ideas upon other Catholics of the nation; any monopoly of Church administration by any such group; any reversion, even though unconscious, to the imperial idea within a republic which has never been anything else but a republic, and which is set up in the most orthodox conformity with those political concepts expounded by a great thinker and scholar who is now in process of canonization, will only set back once more that condition for which the Church has striven since it became conscious of itself as an organism: a political state in which religion takes its proper place as the conscience of the nation, informing its national political acts by informing the individuals who perform those acts. If there is an ideal in political government, that is it. No political government has worked out that way heretofore in the life time of the Catholic religion and of the Church. This seems to me to be at last the correct interpretation of Theocracy.

Men have tried out other interpretations. They have failed. Men have argued that the Pope should not only rule the spiritual community of the Church, but that he should govern all political entities as well. It has been tried, and it has failed. It does not follow, even though the thing be sound that every man who becomes a priest and takes upon himself the care of

souls, is, through natural bent or becomes through the rite of ordination a shrewd financial administrator, a capable executive, a judicial light, a military strategist, a sound economist. The government of the Papal States, even allowing much for the general state of European and Italian civilization, was never conspicuously successful as a government. I have never seen a careful analysis of the phenomenon of anti-clericalism, and were it not for the fact that the subject is utterly repulsive to the American Catholic Press I would be inclined to attempt such an analysis. In it I would study very carefully the possibility of the rise of anti-clericalism out of attempts of the clergy to govern in the temporals rather than to develop and influence conscience.

The Church is not dead and rigid, but a living organism if we believe that Christ rose from the dead and truly lives.

There is a captivating speculation in the future of the Church in the United States and its effect on the universal Church, growing into the Republic as the Church grew into the Empire, not politically, not by aggression, not by selfish internal intrigues, nor by any system of education which will mould all Catholics to the same pattern, but by the growth to Catholic maturity of the greatest number of individuals, the individual citizen's conscience informed by his faith and re-acting gently and without compulsion upon every other individual with whom he comes in contact. That has never been done before with complete success, possibly, and as I believe, because for nineteen hundred years Church and State have been developing through their growing pains together, and there has not before been set up in the world a political organism in which public expression of conscience is so amply provided for as in our commonwealth. Public expression of popular will has been seen in the world before. The fullest possible expression of popular will informed by conscience is, I think, unique in history.

In the United States we are entering a new historical phase in the relations between Church and State. It behooves us to study it, to understand it and to see to it that therein the Catholics of the United States make a real contribution to Church History.

WILLIAM FRANKLIN SANDS.

CONTRIBUTIONS OF THE PAPACY TO INTERNATIONAL PEACE

One of the most significant and promising features of public life today is the movement for international peace. For several generations now the means of obtaining and securing the cessation of war have been among the most pressing problems of statesmen and thinkers. One of the more idealistic aims set forth in the Great War was that it was being fought "to end war." And however shallow that claim appear, when we consider only the purposes of diplomats and financiers, it has nevertheless a most important value as indicating the direction of the common people's hope. Mankind is no longer contented with promises of "victory"—"national greatness"—"revanche"—and the like. Its hope is fixed on the permanence of peace. We have come to consider it a right. And leaders must appeal to us under the fiction of that right, even when they are betraying it.

Every association therefore with an ideal end to serve is expected now to make efforts, more or less directly, but seriously, towards peace. It would be strange if the outer world did not apply this criterion also to the Church. It would be still stranger if Catholics did not feel in themselves a sympathy with the yearning of the world; if they too did not look to the leaders of their spiritual kingdom for help in the solution of the world's greatest problem. Hence it is interesting—vital even—to consider the history of the relations of the papacy to the peace problem. It is the finding of history that the Church, especially through the papacy, has done much for other elements of civilization—art, science, government, labor etc. What has the Church, especially through the Papacy, done for peace?

Previously to the Edict of Milan, and indeed for the two centuries subsequent thereto, our record is not rich. During the period of the enfeeblement of the Empire there was much desire for peace. Adrianople and the Goths at the gate of Rome gave much occasion to pray for peace. But with such enemies negotiation was fruitless, peace by arrangement hopeless. War of defense was a primary need. It was then not the expression of a greedy imperialism nor of national jealousy, but the effort to maintain a manifestly superior civilization and to conserve the

tradition of ten great centuries. Our modern idealism of peace, which has for its background a multitude of peoples more or less homogeneous in culture, had no analogy then. A peace movement would then have been meaningless.

We must not forget however that once at least in the face of the most terrible of all Rome's enemies, when arms were powerless, it was the majestic presence of a pope which stayed the hand of Attila. Later on Genseric did not have the same scruples. Yet even he at the sack of Rome moderated the destructive tendencies of his soldiers. Out of respect for his promise to the pope Rome was probably saved from the fate of Niniveh, and the capital of civilization was spared to Western Christendom.

It is with the Middle Ages proper that the papacy begins to appear in the light of an institutionalized force for peace. As the rift widened between the East and West in matters political, Western Europe was left to struggle with her own problems of war and peace. As things then were there was among the barbaric kingdoms no public principle making for peace against the selfish possibilities of victory. No public principle, that is, among these people themselves. But in the Church there was a force making for peace; and it was precisely at this time that the Western Church began to feel more continuously the pressure of policy and legislation from Rome. As early as the time of Dionysius Exiguus papal decretals were included in collections of Civil Law, and from this time until the formation of the great collections of Gregory IX, Boniface VIII and Clement V, the papal law directs itself to the general amelioration of the social background and to the interests of peace. While the civil codes still recognized the ordeal to decide innocence or guilt, the pope rejected and forbade the procedure; they took up and encouraged the Truce of God and the Peace of God; they inveighed against the cruelty and bad example of tournaments; they foreshadowed the provisions of modern international law by forbidding the plundering of shipwrecked vessels; and, like modern international tribunals functioning for the protection of racial minorities, they passed laws to prevent the oppression of the Jews.

The issue of all this legislation has not, so far as I know, been made the subject of exhaustive investigation. We cannot therefore gauge its statutory efficacy as well as we might wish.

But its value as a successor to the wide de facto sovereignty of the Roman Peace, as a substitute for the wild and warlike mythologies of the Northern Peoples, in a word, its value as an educative factor, cannot be denied. Nor can it be denied that this educational work, while it was shared by synodical bodies, metropolitans and national hierarchies, derived its continuity and impressiveness from the fact that the Church had a center, a capital, and a sovereign code of law superior to local jurisdictions and outlasting the violence and outrage of de facto governments. "Under the empire of this idea," says Guizot, "Christianity considered all men, all peoples as bound together by other bonds than force, by bonds independent of the diversity of territories and governments. . . . While working to *convert* all nations, Christianity wished also to *unite* them, and to introduce into their relations principles of justice and peace, of law and mutual duties. It was in the name of the Faith, and of the Christian law that the Law of Nations was born in Christendom."

In support of this educative power, this civilizing, unifying force of ecclesiastical and papal law, an instructive contrast can be drawn between the histories of two warlike groups, the Mohammedans and the Normans. The Mohammedans, scattered national groups, were united over wide territories and during many ages by the principle of the sanctity of war. The Normans, an originally alien and bellicose people, came into Europe as invaders, spreading everywhere and asserting themselves by the right of Conquest; yet, accepting the Christian religion, its laws, its sanctities of peace, its papal sovereignty, they changed, under these influences, their energies of combat into energies of construction, founding Christian monarchies, codes of law, politics, architectures, literatures, and laying, more than any other single race perhaps, the cornerstone of what is best in modern government and culture. The relations of this people with the papacy is an open story to all who know the history of France, England or Italy.

But we can do more than merely read the laws of these times to draw inferences from them. It would be possible to construct for these ages a papal chronology very large in volume based only on the narrative of its actual efforts in the specific work of peace.

We have in the first place the efforts of popes in the sixth and seventh centuries to hold together the fabric of imperial govern-

ment. The pope of this time had it for their principle policy perhaps to rouse the sluggishness of the Byzantine emperors in the maintenance of their authority. Gregory I is the great type of these pontiffs. His interesting letters reveal him as constantly preoccupied with the problem of order and stable legitimate government for the distressed populations of Italy.

When revolution was called for in France of the eighth century by the nullity of the Merovingian kings, a sanction was given to the act of Pepin, and the acquiescence of the conscience of his people was secured by the approval of a pope. A revolution was needed. A revolution was achieved. But it was achieved without bloodshed — peaceably — because of the pronouncement of the supreme moral authority.

In the readjustments after the occupation of Southern Italy by the eleventh century Normans, it was the popes, Leo IX and others, who were the chief agents of reconciliation.

Just a little later Urban II, the father of the first Crusade, ousted from his capital by the imperial party, refused to lead troops to beseige Rome, because he did not wish "at the price of mens lives even to recover Rome."

The activities of Innocent III have often been represented as the policy of an aggrandizing power. Yet it is possible to represent his assertion of the feudal principle in the cases of Southern Italy and England, or of the Imperial Tradition in the case of the wars of Otto and Philip, as the acts of an arbiter in the interest of the commonweal. To think of the triumphant progress of the papacy under Innocent as merely the effect of a desire for power would be a serious mistake, against history as well as justice. It was the culminating point in the development of an institution which was conscious of its own sovereign influence for peace, and resolute to impose its higher and more Christian polities in the administration of European affairs. It was the true, if momentary, realization of European unity. But unity means peace. It was therefore the true, if momentary, realization of European peace.

We might dwell, did we wish, reign by reign, on the papal efforts for the continuance of unity and peace. We might recall Innocent IV mediating in the frontier disputes of Austria and Hungary; John XXI sending the Franciscan and Dominican generals to end the wars between Philip III of France and

Alfonso X of Castile; Boniface VIII pathetically trying to prevent two hundred years of bloodshed by mediating between Edward I and Philip the Fair; John XXII attempting to forestall other centuries of war by arbitration between Edward II and Robert Bruce; Benedict XII vainly intervening between Philip VI and Edward III as the Hundred Years War began; and Clement VI arresting the progress of the same war by the treaty of Malestroit and by appeals for clemency to the victor of Crecy. We can see Innocent VI bringing about in the same war the more important Treaty of Bretigny, and attempting intervention between Peter the Cruel of Aragon and Peter the Cruel of Castile. We can recall Gregory XI detained in his return from Avignon to Rome by the need of sealing the reconcilation of Edward III and Charles V. Not only in the thirteenth century when the medieval system of a community of Christian peoples prevailed, but for many generations afterward, as long as any pathetic vestige of that dream remained, we can see the popes recalling it, insisting upon it, and begging kings, Christians in name, to be such in fact, and to spare the blood of peoples for whom Christ had shed his blood. And even in the days of Henry IV, when so much had been done by world-revolution to destroy even the spiritual jurisdiction of the popes, that warlike prince could still entertain dreams of a world-federation for peace; and in his noble dream he thought of the pope as its president.

These facts and testimonies are mere gleanings from records out of which a copious literature could be written. Studies of the diplomatic activities of single popes, of the establishment by them of arbitral devices, of the creation of the Holy Roman Empire as a dream of unity and peace, of continuous policy in the direction of reducing the number of possible belligerents by fostering larger governmental units, would be rewarded with results almost revolutionary in the interpretation of the past. We do not indeed forget the wars of the popes; Gregory against Henry, Alexander against Barbarossa, Gregory and Innocent against the Hohenstaufen. Yet in spite of the wars, nay, often in these very wars, the popes were fighting for the maintenance of peaceful standards. Many of the papal struggles were in reality "wars to end wars." The popes knew this. The people knew it: friendly contemporaries like Catherine of Siena, jealous ones like Pierre Dubois. In later times and in retrospect Leibniz

recognized this truth. So did Grotius. The truth is in fact so axiomatic that even the very unpapal Mr. Wells has one of the best expressions of it: "Sooner or later the world must come to one universal peace, unless our race is to be destroyed by the increasing power of its own destructive inventions: and that universal peace must needs take the form of a government, that is to say a law-sustaining organization, in the best sense of the word religious; a government ruling men through the educated coordination of their minds in a common conception of human history and human destiny. The papacy we must now recognize as the first clearly conscious attempt to provide such a government in the world." (Outline p. 654).

The fifteenth and sixteenth centuries are characterized by the gradual breakdown of the majestic Medieval structure. The growth of the national monarchies of England and France, the development of foreign policies with a view to territorial aggrandizement in Italy, the renewed activities of Islam on the Southeastern frontiers, schismatic tendencies in the church of the fifteenth, and Protestantism in that of the sixteenth century sapped the efficacy of the papal law and detracted from the impressiveness of papal intervention. The policies of the popes too took new lines. With regard to the Papal States the fear of aggression drew the popes into alliances and counter-alliances which often turned them from peace-makers into belligerents. Later on the military tendencies of the newly-formed Protestant states or the revolutionary tendencies of heresy in France brought about military action on the part of the Catholic governments in which the popes frequently took a part. Nevertheless one of the main lines of papal policy during these fateful centuries continued to be the desire for a union of Christian European governments against the Turks. This was on the one side to aim at war; but it was defensive war under great provocation, and its other side would have been the allaying of the domestic quarrels of the states which had once formed the Christian system. In this connection the names of Calixtus III, Pius II and Pius V stand out with special prominence.

Another event, isolated, yet dramatic and pathetic in view of past and future, was the celebrated division of the Oceanic discoveries between Spain and Portugal. One of the last efforts of the Medieval federation of Christendom to maintain itself was

when Alexander VI acting as sovereign abiter between two Christian states, drew the red line which was to mark the boundaries of their colonies and set a term to their disputes.

All during these two centuries the attempts of the popes for peace were still frequent. True, owing to changed conditions, their efforts were largely fruitless. Yet the efforts were made; and in the long wars of France and the Empire in Italy during the sixteenth century, in the terrible internecine strife of the seventeenth, again and again the popes manifested the consciousness of their high mission by their efforts to bring back unity and peace.

The eight religious wars of France were terminated after a generation by the victories of Henry IV and his absolution at Saint Denis. Yet there was still a powerful opposition to him on the part of the Catholic League, and under the arms of the League Paris still held out against him. Had this resistance continued France might have suffered another generation of disaster which would have dismembered her. Their resistance was ended by the decision of a pope. For when Clement VIII accorded absolution to Henry IV in 1595 he took away the most important reason for resistance. Henry entered Paris and began those fifteen years of excellent administration which, by all admission, were among the most prosperous of the history of France. This action of Clement VIII was a sort of abrogation of the policy of the last century whereby the pontiffs had sought to secure throne and altar by alliances and war-aid. It seems therefore to mark an era in the history of the peace activity of the popes and to open the way to their modern functions.

In the seventeenth century, in fact, the biographies of pope after pope give increasing space to their role as peacemakers. There is, to be sure, the important setback of the Thirty Years War, but the issue of that war was itself the termination of the system of confusing religion with statecraft and diplomacy. For the rest, the work of the popes of this time form a noble contribution to the history of peace. Thus we have the actions of Gregory XV and Urban VIII culminating in the Treaty of Monzon in 1626 and averting war between France and Spain over the Valtelline; the improved relations between Spain and England brought about under Gregory XV; the fine words of Urban VIII on refusing to enter the war of the Milanese Succession:

"It is impossible for me to put in jeopardy the common fatherhood, and, in consequence, to be no longer able to heal and pacify, which is the proper business of the pope as the vicar of Christ." It was likewise Urban who refused to join the league of Catholic Estates against France and Sweden, and who abdicated the old policy of the interdict when Richelieu put France's arms with Sweden's to fight the Catholic forces of Germany. It was Clement IX who acted as arbiter between France and Spain at the Peace of Aix-la-Chapelle, and who admonished Louis XIV to give over his imperialistic aims. This last was one of the principal objectives of the next two popes, Clement X and Innocent XI. It was the latter whose firmness checked Louis' attempt to increase his power in Germany by the control of the Cologne Archbishopric. All in all the seventeenth century was marked by a reversal of the belligerent and unfortunate tendencies of the preceding age. Nearly all the popes of this time contributed in some signal way to shut the gates of Janus or to keep them shut.

In the troubles of the Revolution and Napoleonic periods the much tried Pius VI and Pius VII were not called upon to exercise any great influence for peace. Themselves the object of attack, they did what they could to maintain the independence of the states of the Church and their essential spiritual rights in Europe, but their success was achieved more by the patience of a sort of prolonged martyrdom than by any direct action. At the Congress of Vienna, however, one of the most signal tributes ever rendered to the pacific and supranational character of the papacy was the readjustment of Pius VII's historic claims by the good will of the concerted powers, Catholic, Protestant and Orthodox. Thus at a time when the papacy had just emerged from one of its worst trials, when it was completely deprived of all military resource and strength of alliances, its moral character and value to the war-weary nations were strikingly emphasized.

The disappearance of the Temporal Power in 1870 was effected with a gracious and becoming gesture on the part of Pius IX. He allowed no beginning of a combat that might have been bloody and ineffectual. His resistance was of the moral order only, and took the form of a voluntary imprisonment.

Here again the papacy seemed from a physical point of view resourceless. One by one all the institutions of Medieval Europe

had disappeared in defeat or superanuation. The last to go was the Papal State of Central Italy. Yet on the death of Pius succeeded a pope whose long reign was also significant in this record of the work of the popes for peace. During his time act after act served to the cementing of the internal union of states, and at least once for the reconciliation of clashing sovereignties. His great statements defining the Catholic attitude on economic and social questions, his encyclical on the nature and offices of states were of importance for clarifying the political tenets of Catholics throughout the world and for adjusting their minds to the modern democracies. A practical step in the same direction was his attempt to dissuade the fractious monarchies of France from their antagonism to the established government. Yet in this respect the most significant act in his career (because of its presage of future possibilities) was his famous arbitration between Germany and Spain in 1885 concerning the sovereignty of the Caroline Islands. A series of minor acts: his intercession with the Negus of Abyssinia for the Italian prisoners taken at Adna, his encyclical to the bishops of Brazil on the abolition of slavery, his conciliatory spirit in negotiation with the United States about the Philippine temporalities—these and a great many other achievements impressed him upon his time as a great personality. But they did more than this. They illustrated the usefulness of the papacy as an institution, they set precedents for its service to civilization and peace, they were, we may not unreasonably hope, "the fair beginning of a nobler time."

The World War gave an opportunity for Benedict XV to display conspicuously the unique powers of the papacy in the interest of peace and kindred causes. Beginning with the appeal of Benedict for a Christian truce in 1914 the Vatican exerted itself all during those terrible years for the realization of its Christian mission. Through papal secretariats and commissions initiatives were taken and negotiations carried through for the exchange of disabled prisoners and of civilians in occupied territories, for the hospitalization of the sick in neutral countries like Switzerland, for correspondence with the families of prisoners of war and care of their needs during detention, for provisioning the devastated regions. The American help so generously given in Belgium and Poland was arranged for with the aid of the papal

diplomatic service. The pope had come to be looked on as the only neutral securely and permanently disinterested.

In spite of his neutrality Benedict XV did not hesitate to speak out concerning concrete violations of justice. His condemnation of the invasion of Belgium was uttered as early as January 1915 and was reiterated in July of the same year. In his first encyclical (Nov. 1914) he had already proposed an armistice and a discussion of war-aims. His last and finest step was taken when on August 1, 1917 he addressed his celebrated note to the belligerents. Passing from general terms, he proposed the concrete conditions of stable peace; general disarmament and abolution of conscription; an arbitral tribunal for international justice; liberty of the seas; and, with regard to the war itself, neither indemnity nor annexation, but restoration of invaded territories, recognition of the just aspirations of subject peoples and the redemption of Belgium.

As we know, the great initiative failed. No effective answer was given to his plea. We have since found out of one the painful reasons. The fifteenth article of the Treaty of London had forestalled in the interests of Italy any such step on the part of the Vatican. There was to be another year of war. And when the nations finally met around the peace-table and later for the construction of the League, the same jealous interests which had already kept Leo XIII from The Hague kept Benedict from Versailles and Geneva.

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To sum up then:

The peace activity of the popes begins in the early Middle Ages with the Leos and the Gregories. At this time it took the form of appeals to the conscience of individual leaders like Attila or of peoples as in the case of Pepin. Later, after the Investiture Struggle and the building up of the papal law, the papacy became a supreme arbitral tribunal, not always attaining peace, but alway working towards it. In the two centuries of transition to modern conditions, the fifteenth and sixteenth centuries, cross-currents of religious, political and social change interfere with the papal traditions, break up its institutions, cause it at times to lose its aim. Yet even during these two centuries of adversity there is a rich record of the efforts of indivi-

dual popes to secure welfare by peace. The modern era opens about the year 1600, and with the reign of Clement VIII. The popes by this time are divested of most of their medieval support in public law. But their spiritual dignity, their disinterested character, their moral strength are very much enhanced. There seems to be a presage of new and unheard-of accomplishments in this solemn and sublime task of guiding the world into the ways of peace.

The Church was instituted—the popes therefore rule—in behalf of the kingdom that is not of this world. Yet it is a truth recognized by every thinker from Augustine to Newman that the Church has brought about magnificent by-products of civilization. The highest peoples in the world are the Christian peoples. The rest have hopes only as they take our example and follow our lead.

What has given Christendom this superiority in the past is the sum of Christian principles about the individual, the family, society. These principles have slowly become the acquired and cherished convictions of the millions.

We begin in this present age to see another precious fruit maturing—the *desire* becoming the *will* for peace. What wonder if this fruit also need to be matured by the same fosterage as brought the others to perfection?

There are many requisites to the establishment of this great ideal. The most important is that the need of peace come to be felt in the hearts of peoples and that a sense of duty reign in their consciences. To bring this about we have already countless associations, societies of International Law, endowments for peace, interparliamentary unions and the like. Yet with all their debates they cannot reach the concord, and with all their resolutions cannot produce the convictions that can be produced in the hearts of millions by a word from the authority that sits in the Vatican. "Sedet aeternumque sedebit." Unarmed, despoiled of territory, incapable of aggrandizement, deprived of wealth and of the other assets of inferior organizations, this man is nevertheless unrivalled in the world for the ability he has to arouse interest in his desires, sympathy for his aims and obedience to his decrees. His ancient and majestic administrative sovereignty in public law is gone. He speaks with all the more

impressiveness to minds and hearts. And if world-peace ever comes it will doubtless come because these minds enlightened and these hearts aroused by the voice of the Vatican, shall have longed and thirsted for the "Peace of Christ in the Reign of Christ."

JOHN K. CARTWRIGHT.